



# San Francisco Bay Area Water Trail Plan Final Environmental Impact Report



Prepared by:

**GAIA** Consulting, Inc.

with assistance from Grassetti Environmental Consulting, URS Corporation, and H.T. Harvey & Associates

SCH # 2007112080

Prepared for:

**California State Coastal Conservancy** 

1330 Broadway, Suite 1300 Oakland, CA 94612

Tel: (510) 286-1015

Fax: (510) 286-0470



### VOLUME 1

SAN FRANCISCO BAY AREA WATER TRAIL PLAN FINAL ENVIRONMENTAL IMPACT REPORT

\_\_\_\_\_

#### TABLE OF CONTENTS

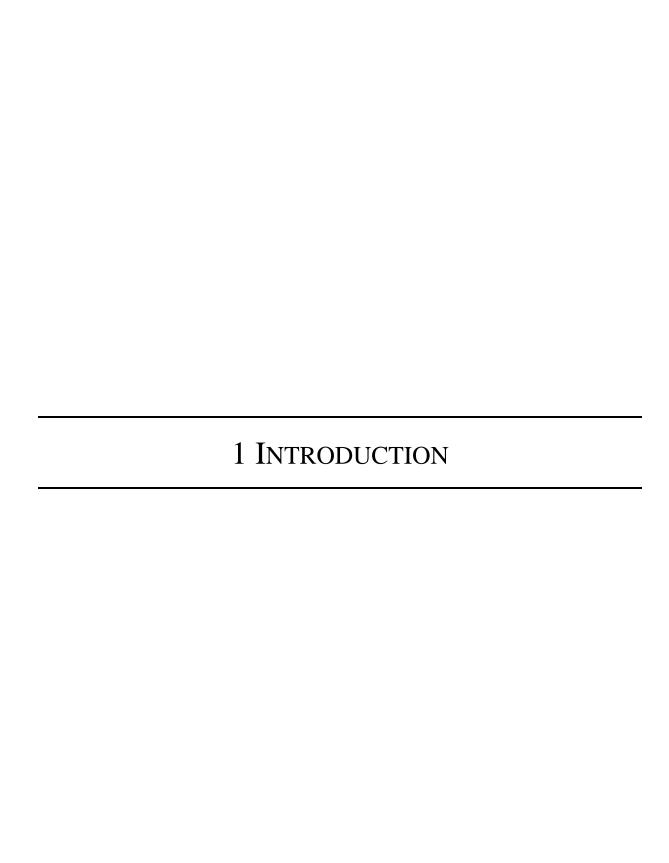
1.	INTRO	DDUCTION	1-1
2.	RESPO	ONSES TO COMMENTS ON THE DRAFT REVISED EIR	2-1
2.1		er Comment Responses	
<b>1</b>	2.1.1		1
	2.1.1	Trailhead Maintenance, Signage, Law Enforcement, and Mitigation Measures	2-1
	2.1.2	Master Comment Response 2: Enforcement of Mitigation Measures	
	2.1.3	Master Comment Response 3: Feasibility and Adequacy of Mitigation	
		Measures	2-4
	2.1.4	Master Comment Response 4: Proposed Additions or Changes to the List of	
		Backbone Sites Included in the Water Trail Plan	2-9
	2.1.5	Master Comment Response 5: Resources for and Coordination of Law	
		Enforcement Activities	
	2.1.6	Master Comment Response 6: Complexity of Trailhead Designation Process and	
		Related CEQA and Permit Requirements	
	2.1.7	1 6	
	2.1.8	Master Comment Response 8: CEQA Analysis Issues	. 2-14
2.2	Respo	onses to Comments from Federal, State and Local Agencies	. 2-15
	2.2.1	T T T T T T T T T T T T T T T T T T T	
		United States Fish and Wildlife Service	
	2.2.2	Responses to Comments from the United States Department of the Interior – National Park Service	
	2.2.3	Responses to Comments from the State of California Department of Fish and Game	
	2.2.4	Responses to Comments from the Contra Costa County Department of	
		Conservation & Development	. 2-35
	2.2.5	Responses to Comments from the County of Marin Department of Parks and	
		Open Space	
	2.2.6	Responses to Comments from the County of Santa Clara Parks and Recreation	n
		Department	
	2.2.7	Responses to Comments from the East Bay Regional Park District	
	2.2.8	Responses to Comments from the Harbor Safety Committee of the San France	
	2.2.0	Bay Region	
	2.2.9	Responses to Comments from the City of Hercules	. 2-41
2.3	Respo	onse to Comments from Organizations	. 2-42
	2.3.1	Responses to Comments from Bay Access, Inc	
	2.3.2	Responses to Comments from Friends of Corte Madera Creek	
	2.3.3	Responses to Comments from Marin Audubon Society	
	2.3.4	Responses to Comments from San Francisco Board Sailing Association	
	2.3.5	Responses to Comments from Save the Bay	. 2-52

	2.3.6	Responses to Comments from Shoreline Watch for San Jose	2-52
2.4	Respo	nses to Comments from Individuals	2-55
	2.4.1	Responses to Written Comments from Norton Bell.	
	2.4.2	•	
	2.4.3	Responses to Written Comments from Arthur Feinstein (Consulting for	
		Conservation)	2-56
	2.4.4	Responses to Written Comments from Beth Huning	2-57
	2.4.5	Responses to Written Comments from Paul Kamen	
	2.4.6	Responses to Verbal Comments from Paul Kamen.	
	2.4.7	Responses to Verbal Comments from Jim McGrath	2-62
	2.4.8	Responses to Written Comments from Paul Nixon.	2-63
	2.4.9	Responses to Verbal Comments from Paul Nixon	2-63
		Responses to Written Comments from Gail Raabe.	
		Responses to Written Comments from Richard Santos.	
		Responses to Verbal Comments from Richard Skaff	
	2.4.13	Responses to Verbal Comments from Casey Walker	2-65
3. 3.1	Comm Comm Comm Comm Comm Comm Comm	ments from Federal, State and Local Agencies.  The sents from the United States Department of the Interior – United States Fish Wildlife Service  The sents from the United States Department of the Interior – National Park Service  The sents from the State of California Department of Fish and Game  The sents from the Contra Costa County Department of Conservation & Developments from the County of Marin Department of Parks and Open Space  The sents from the County of Santa Clara Parks and Recreation Department  The sents from the East Bay Regional Park District  The sents from the Harbor Safety Committee of the San Francisco Bay Region  The sents from the City of Hercules	vice
3.2	Comn	nents from Organizations.	
	Comm	nents from Bay Access, Inc.	
	Comm	nents from Friends of Corte Madera Creek	
	Comm	nents from Marin Audubon Society	
	Comm	nents from San Francisco Board Sailing Association	
		nents from Save the Bay	
	Comm	nents from Shoreline Watch for San Jose	
3.3	Comn	nents from Individuals.	
		n Comments from Norton Bell.	
	Writte	n Comments from Ted Choi – City Kayak	
	Writte	n Comments from Arthur Feinstein (Consulting for Conservation)	

Written Comments from Beth Huning Written Comments from Paul Kamen

Verbal Comments from Paul Kamen
Verbal Comments from Jim McGrath
Written Comments from Paul Nixon
Verbal Comments from Paul Nixon
Written Comments from Gail Raabe
Written Comments from Richard Santos
Verbal Comments from Richard Skaff
Verbal Comments from Casey Walker

4.	MITIGATION MONITORING AND REPORTING PROGRAM	4-1
----	---	-----



#### 1.0 Introduction

This document, together with the San Francisco Bay Area Water Trail Plan Draft Revised EIR (DREIR), constitutes the San Francisco Bay Area Water Trail Plan Final Environmental Impact Report (FEIR) in accordance with Section 15132 of the California Environmental Quality Act (CEQA) Guidelines. This FEIR contains limited additional information that was not included in the DREIR. This additional information clarifies, amplifies, or makes insignificant modifications to the information contained in the DREIR. The recommended alternative from the DREIR remains Alternative 3, the Enhanced San Francisco Bay Area Water Trail Plan (Enhanced Water Trail Plan), which was identified as the environmentally superior alternative.

Following this introduction, Chapter 2 provides responses to the comments made on the DREIR during the public review period (August 3 – September 21, 2010, with one additional, accepted comment letter dated September 22), including comments made at the public hearing for the DREIR on August 24, 2010. Chapter 3 provides the comment letters and transcripts of the verbal comments received at the public meeting, and Chapter 4 contains the Mitigation Monitoring and Reporting Program (MMRP).

Twenty-eight comment letters (including e-mails and transcripts of verbal comments) were received, some of which repeated concerns expressed in other letters. The most common areas of concern were on the adequacy or enforceability of mitigation measures, funding for mitigation measures and site improvements, the trailhead designation process, and aspects of the CEQA process. Responses to similar comments were grouped into eight master responses, which are presented at the beginning of Chapter 2, followed by individual comment responses.

A Draft EIR for the WT Plan was previously released to the public in June 2008 and extensive comments were received. The Conservancy, in coordination with the other Project Management Team member agencies (the Bay Conservation and Development Commission, Association of Bay Area Governments, and California Department of Boating and Waterways), recirculated the Draft EIR after making revisions to most effectively and comprehensively address those comments, clarify potential impacts, and refine mitigation measures.

*Erratum: Non-Motorized Boating in California*, published by the California Department of Boating and Waterways in March 2009, is the final report, not the draft report as listed in Chapter 6 of the DREIR, page 6-5.

# 2 RESPONSES TO COMMENTS ON THE DRAFT REVISED EIR

#### 2 RESPONSES TO COMMENTS ON THE DRAFT REVISED EIR

#### 2.1 Master Comment Responses

## 2.1.1 MASTER COMMENT RESPONSE 1: FUNDING OF WT PROGRAM ACTIVITIES, TRAILHEADS, TRAILHEAD MAINTENANCE, SIGNAGE, LAW ENFORCEMENT, AND MITIGATION MEASURES

#### Summary of Comments:

Numerous letters either indicated that funding is required for certain components of the WT program, or requested that funding be made available. Specific areas identified for funding by one or more authors include:

- Funding is needed to support enforcement of WT mitigations
- Funding is needed to support stewardship and docent programs
- The mitigation measures place an undue financial burden on site owners/managers and will discourage participation in the WT
- Without funding to support many of the mitigation measures, they are not feasible or effective

#### Response:

Under CEQA, an EIR is required to identify feasible mitigation measures needed to avoid or lessen environmental effects of the project to a less than significant level. See CEQA Guidelines (14 Cal. Code Regs. 15000 et seq.) § 15126.4. Likewise, the lead agency is required to adopt and to subsequently implement those mitigation measures in undertaking the project. CEQA requires that feasible mitigation measures actually be implemented as a condition of the project, and not merely be adopted and then neglected or disregarded (See *Federation of Hillside & Canyon Associations v. City of Los Angeles* (2000) 83 Cal.App.4th 1252, 1260-1261("*Federation*")).

However, an EIR is not required to discuss funding that may be needed to implement those measures, especially if the lead agency has the apparent capacity to implement those measures. See *Santa Clarita Organization for Planning the Environment v. County of Los Angeles* (2007), 157 Cal.App.4th 149, 163. It is only when proposed funding has been found too speculative or uncertain to be considered adequate that approval of the project and adoption of an EIR is found inappropriate. *Anderson First Coalition v. City of Anderson* (2005) 130 Cal.App.4th 1173, 1188-1189 ("*Anderson*").

Here, unlike *Federation*, there is nothing to suggest the mitigation measures will not be implemented and, unlike *Anderson*, there is nothing to suggest that the Conservancy's funding of the proposed mitigation measures is either "speculative," or so "uncertain" or inadequate as to render the mitigation measures meaningless. Under the Conservancy's recently adopted FY 2010-11 appropriation, the Conservancy has over \$50,000,000 available to implement coastal projects consistent with its statutory objectives. Those objectives include: "after the completion of the [San Francisco Water Trail] plan, the conservancy [*sic*] may undertake projects and award grants that are generally consistent with... and achieve the implementation of the plan" (Public Resources Code § 31163(d)(2)). More specifically, in connection with the review and possible

adoption of the WT Plan and certification of the FEIR by the Conservancy (through its board), staff will recommend that the Conservancy authorize the expenditure of funds adequate to carry out the initial implementation of the WT Plan, including required mitigation measures. This proposed authorization is expected to provide funding for:

- 1. Development and implementation of an education, outreach, and stewardship program;
- 2. Oversight of the Mitigation Monitoring and Reporting Program (MMRP) developed as part of the FEIR, including the development and funding of specific measures as needed for initial implementation of the project;
- 3. Provision of assistance to site owners and managers of potential WT sites, in cooperation with Conservancy staff, to develop site descriptions, trailhead management plans, sitespecific signs, and enhancement projects consistent with WT criteria for site designation;
- 4. Project management of specific enhancement projects to be funded with grant funds.

In short, if the Conservancy adopts the Water Trail Plan and certifies this FEIR, Conservancy funding is expected to be authorized to undertake the mitigation measures identified for the initial implementation (approximately the first two years) of the WT and initial HOS designation. (See Master Comment 6 for more discussion of the designation process.) The Conservancy or other funding agencies may provide future, additional funding for general implementation needs and assessment and mitigation measures in connection with site-specific designation, with another Conservancy authorization expected in approximately the third year, in addition to continued Conservancy and Project Management Team (PMT) staff support of the project. Absent funding from these types of sources, the costs of site-specific mitigation measures will have to be borne by the site owner/manager in order for the site to be designated as a WT site. If funding for the required site mitigation measures and/or management/enforcement is not available, then the site would not be designated under the WT. Enforcement of mitigation measures is addressed further in Master Comment Response 2, below.

#### 2.1.2 MASTER COMMENT RESPONSE 2: ENFORCEMENT OF MITIGATION MEASURES

#### Summary of Comments:

Many comment letters expressed the concern that without enforcement, the proposed mitigation measures, especially mitigation measures for potential biological resources, would not be effective. They requested guaranteed funding for enforcement (see Master Comment Response 1, with regard to funding), including on-water patrols and/or docent programs, and coordination of enforcement activities among different law enforcement jurisdictions.

#### Response:

The Conservancy has no regulatory authority and the Water Trail Act did not confer any regulatory power to the Water Trail project or specifically to the Conservancy, the lead agency for the implementation of the Water Trail. The Conservancy can only act to the extent of its authority. Indeed, as the CEQA Guidelines note, CEQA does not grant an agency any new powers independent of the powers otherwise granted to that agency; instead, the exercise of authority in achieving the objectives of CEQA must be accomplished within the discretionary powers of the agency. See CEQA Guidelines §15040.

The authority given by statute to the Conservancy does not extend to policing, regulating or enforcing on-water activity. However, the Conservancy (with the broader PMT) does have the authority, in the context of the Water Trail Plan, to gather information about a site as part of the designation process and to require that certain criteria be met as a condition of initial site designation and continued status as an officially designated WT site. The Conservancy and the broader PMT also have the authority to revoke the designation of the site, should operation of the site or mismanagement of the site, in relation to the site's being a designated WT trailhead, lead to identifiable significant environmental effects.

The comments ignore the fact that the DREIR *does* contain and describe these enforcement measures, and others mentioned below. Every WT trailhead is subject to, at a minimum, annual review for compliance with the requirements imposed on it. As noted in the DREIR, depending on the issues at the site, these conditions or requirements may include seasonal closure of the site, more frequent assessment of conditions, use of docents, repair or restoration of damage caused by boaters, installation of new facilities (e.g., boat washing facilities), etc.

While the concept of providing a corps of docents or regulatory agents to patrol the length and width of the WT (comprising more than 500 square miles of open water and approximately 1,000 miles of shoreline) continuously and indefinitely is presented in various comment letters as a possible mitigation measure, it is neither practical nor feasible, nor is it consistent with the concern expressed in the same letters that the increased and sustained presence of NMSBs on the Bay is a problem (see also discussion of docent programs in Master Comment Response 3). An EIR need not analyze "every *imaginable* alternative or mitigation measure; its concern is with *feasible* means of reducing environmental effects (Concerned Citizens of South Central L.A. v. Los Angeles Unified School District (1994) 24 Cal.App.4th 826, 841). Under the CEQA statute and guidelines a mitigation measure is "feasible" if it is capable of being accomplished in a successful manner within a reasonable period of time, taking into account economic, environmental, social, and technological factors. See Public Resources Code § 21061.1; Guidelines, § 15364. What the DREIR has instead proposed – the possibility that docents or site-operator on-the-water oversight may be required if warranted by circumstances related to a specific site - is a practical, feasible approach under a programmatic EIR.

The CEQA Guidelines support the approach used in this programmatic EIR. Although, in general, the Guidelines require that mitigation measures must be fully enforceable through permit conditions, agreements, or other legally-binding instruments, "in the case of the adoption of a plan... [or] policy, regulation, or other public project, mitigation measures can be incorporated into the plan ... [or] policy or project design." (See CEQA Guidelines § 15126.4(a)(2).)

Finally, the authors of the comment letters raise a point concerning coordination of "enforcement" of WT provisions. To address that concern, the web-based comment form included as part of Mitigation Measure Nav-M4A will be expanded to include environmental as well as safety and user conflict concerns. Furthermore, WT signage at all sites will include information on how NMSB users can submit comments to the WT if they encounter any concerns.

## 2.1.3 MASTER COMMENT RESPONSE 3: FEASIBILITY AND ADEQUACY OF MITIGATION MEASURES

#### Summary of Comments:

Multiple comment letters indicated that one or more of the mitigation measures were not feasible or adequate, for a variety of reasons:

- 1. For mitigation measures involving buffer zones, individual boaters may not or would not be able to judge the appropriate distances, and rafting birds would not be visible at a distance of 250 meters.
- 2. Absent funding, enforcement of the proposed restrictions would not be feasible.
- 3. Education is inadequate as a mitigation measure, and signage only has very limited effects on the public's behavior and is routinely ignored by some members of the public.
- 4. Docents should be required to be both on the water and on land to be effective and to make signage effective.
- 5. Mitigation measures are vague and poorly defined.
- 6. Site-specific information was not presented for certain mitigation measures.
- 7. Mitigation measures should be developed to address potential future changes in NMSB use due to innovations in NMSB design or demographic trends.

In addition, some comment letters suggested that not designating certain sites, especially sensitive sites, would be more effective or desirable than the proposed mitigation. Finally, some comment letters argued that mitigation measures have been inappropriately deferred in the DREIR.

#### Response:

The education program will provide measures to help NMSB users judge appropriate distances (e.g., 100 meters is approximately the length of a football field), and will also encourage NMSB users to stay away from any rafting birds they see. While not all NMSB users will be able under all circumstances to detect birds at a distance of 250 meters, avoiding rafting birds as soon as they become visible is far preferable and a great improvement over ignorance of the disturbance caused by purposely boating toward and through a raft of waterfowl.

Implementation and "enforcement" of mitigation measures will occur on three levels. Some mitigation measures will be implemented by WT staff as part of the management of the WT program. These overarching (WT program-level) measures include, for example, the overall education and signage program, and such specific tasks as providing for a web-based comment form to report navigation incidents and provide other comments. These measures are "enforced" by implementing the WT program as currently defined and are therefore under the control of the Conservancy and the PMT. Application of mitigation measures will also occur during development of the Site Description/Trailhead Plan, where studies (e.g., parking studies) may be conducted if needed, and site-specific mitigation measures are identified, where needed. The trailhead designation process is required for all sites that may become part of the Water Trail, and is therefore also under the control of the Conservancy and the PMT.

Finally, site-specific mitigation measures would be implemented by the site owner/manager during enhancement or as part of ongoing site management. Mitigation measures at more sensitive sites would be more extensive, and may include seasonal closures and/or requirements for docent or stewardship programs. If the site owner/manager is unable or unwilling to commit

to implementing the applicable mitigation measures, the site would not be designated. If the site owner/manager fails to or becomes unable to implement the necessary measures after a site has been designated, "enforcement" will consist of possibly undesignating the site. The failure to implement the necessary measures may come to the attention of WT staff through a variety of means, such as communication from the site owner/manager, annual or more frequent site reviews, or information provided by the public. The WT EIR cannot, and is not required to, provide mitigation for potential impacts that are speculative, such as unknown NMSB design changes and/or demographic trends that cannot be quantified.

Signage is a meaningful mitigation measure. Signs are used in a variety of settings for the purpose of influencing people's behavior ("No Loitering," "Don't Feed the Animals," "Smoking is Harmful to Your Health," "Beware - Dangerous Currents," "Drains to San Francisco Bay" and so on). Indeed, the use and benefit of signage for these purposes is so accepted and so imbedded that a multitude of laws *require* signage (e.g. Proposition 65, requiring signs warning of cancercausing chemicals; Government Code Section 831.8, conditioning public entity immunity on posting of sign). The Conservancy itself has funded innumerable projects intended to both inform the public and to change behavior toward more environmentally beneficial patterns. Often these signs have been required as a mitigation measure – see Invasive *Spartina* Project Final EIR/S (<a href="www.spartina.org">www.spartina.org</a>) - or have been required as a permit condition (e.g., BCDC Consistency Determination No. CN 1-07 for the public access and restoration of Inner Bair Island).

Education using signage is used extensively throughout the world in natural settings such as parks and reserves to inform visitors about proper behavior and concerns regarding the specific natural resources at various locations. Dozens of studies conducted over the past 30 years show that there is a link between attitude and behavior. Interpretation (i.e., signage or other information)

"...that provokes the formation of positive beliefs about the outcomes of a given behavior will result in a positive attitude about that behavior. When this occurs, the likelihood that a visitor will engage in the desired behavior (if presented the opportunity) is significantly enhanced." (Ham 2009)

The use of signage to modify behavior requires multiple steps:

- 1. The visitor must see the sign, and decide to read it
- 2. The visitor must understand the sign, and engage with the message
- 3. The visitor must believe the message conveyed by the sign, and must incorporate the information into his/her own belief system
- 4. The visitor must not have any stronger countervailing beliefs that will cause him/her to ignore the message on the sign.

For any communication to be successful, it must be relevant to what visitors already know and care about, organized for easy processing, and must make a compelling point (Ham 2007). Proper wording can make a sign more persuasive (Winter 2006). Signs become more effective when the desired behavior is explicitly stated in the title of the sign (Hall et al. 2010), and when

the information is viewed close to the time that the targeted behavior would occur (Ham 2007). New visitors to a location are typically more likely to be open to messages regarding proper behavior (Ham et al. 2008). Signage is typically more effective at changing adverse behavior that is due to carelessness, a lack of skill, or lack of knowledge than behavior that is intentionally illegal (Winter 2006). In addition, signs containing messages addressing multiple bases for human behavior, such as conformance to norms, sanction messages, and ethical appeals may be more effective than signs utilizing only one of these approaches (Widner and Roggenbuck 2000).

Properly designed signage targeted at the correct visitor groups can have a substantial effect on visitor behavior. In a study by Ham et al., (2008) litter pick-up by visitors to a national park in Australia increased from 30% of visitors to 44% of visitors (a nearly 50% increase) with new signage. A study of different wording of messages, designed to reduce visitors walking off-trail in Sequoia National Park, showed that the most effective message reduced off-trail walking from 30.9% of all visitors to 5.8% (Winter 2006). An important element in the Winter (2006) study is that the signs did not include any threat of sanction; they simply requested the desired behavior. Widner and Roggenbuck (2000) compared the effectiveness of three methods of reducing theft of petrified wood at Petrified Forest National Park and found that all three methods significantly reduced theft and that the three methods did not differ significantly in their effectiveness. The methods were a sign, a written pledge, or a uniformed volunteer. All three methods reduced the frequency of theft by approximately one-third (from 2.1% of visitors to 1.4% of visitors). One potential explanation for the uniformed volunteer's similar level of effectiveness to the other methods of intervention is that the study area was large, and that the volunteer may not have been visible to all visitors; this situation is analogous to that which would be encountered by on-water volunteer docents.

Based on the available research, effective signage is typically designed for a specific site. For example, the design and content of a sign would vary depending on whether it is targeted at new visitors to a location, or whether it is targeted at visitors who already consider themselves familiar with a site and its concerns. The former are more likely to read any sign; the latter may require reminders, but are unlikely to have the patience to read extensive information. Location of signage is important to make sure that it is visible to the largest possible number of site users and will be noticed by them. For example, a new sign pertaining to proper food storage to prevent bear incidents was found to be more effective on a trail than at a well-developed, heavily-used campground (Ham et al. 2010). There is also research indicating that repeated exposure to a given message (e.g., increasing the number of signs) increases the effectiveness of the message (Widner and Roggenbuck 2000).

It is <u>not</u> known *how effective* specific signage may be in changing the behavior of NMSB users. The effectiveness of signage will be enhanced by the overall education and public outreach program, because educated, informed boaters are likely to act more responsibly on the water as well as at the trailhead. Safe boaters have less need for emergency landings, thus reducing impacts to sensitive habitat. At a minimum, some percentage of well-intentioned NMSB users (and other recreationists) who are made aware of their inadvertent effects on wildlife are likely to change their behavior on the water as well as on land. The mitigation measures do not anticipate, and the adequacy of the mitigation measures does not require, that all NMSB users change their behavior in response to educational messages and signage. In the context of this EIR, even if the

signage is only partially effective, it will operate on all of the WT site users, and not just those few additional boaters that are using the site as a result of the WT. This point is discussed in Chapter 3, p. 3-122. The fact that educational materials and signage will be available to all NMSB users may in fact result in a net benefit to the environment (i.e., a reduction in effects compared to the baseline). As an example of what even a small degree of improved visitor behavior can mean, the petrified wood theft study pointed out that reducing theft occurrence from 2.1% to 1.4% in that national park, which receives 900,000 visitors annually, equates to 6,000 pieces of wood not stolen each year (Widner and Roggenbuck 2000).

Resource agencies recognize the value of signage as a means of protecting sensitive species. For example, the Snowy Plover Recovery Plan (USFWS 2007) calls for posting signs in areas used by breeding Western snowy plover, considers installation of signs a "priority 1" effort, and recognizes signs as one item that can be used to minimize effects of access on snowy plovers. Furthermore, the Recovery Plan encourages public information and education programs as a means of obtaining compliance with signage. The Recovery Plan considers public information and education programs so significant that it includes an appendix (Appendix K) that provides a prototype for such a program. Thus, WT signage coupled with the education and outreach program is consistent with USFWS' approach to minimizing effects on sensitive species.

Wide-spread use of docents would not constitute a feasible mitigation measure because of the large number of docents required to cover the large expanses of Bay and shoreline that are expected to be part of the WT. For example, two shifts for two docents per day (4 docents) at approximately half the potential trailheads (112 Backbone Sites - 57 HOSs = 55) would equate to 4 x 55 or 220 docents per day, or 1,540 per week. Recruiting, training, and scheduling such a large docent corps would not be feasible due to the cost and administrative burden associated with implementation of such an effort and the difficulty of recruiting such a large number of skilled kayakers to be volunteering steadily in this manner. Limited use of docents, whether on the water or not, could, however, be an effective and feasible mitigation measure for some specific sites or areas, depending on potential effects identified, and will be determined as part of the trailhead designation process.

Not designating a site was suggested as a feasible mitigation measure in several comment letters. As explained in detail in the DREIR, a decision may be made not to designate a site (or, if necessary, to undesignate a site) if the site owner/manager is unwilling or unable to implement the necessary mitigation. However, not designating a site, or de-designation of an existing site, may result in more significant effects to resources at a given site than designating that same site. Sites that are not part of the WT will not receive the same level of on-going review as WT sites, nor would they receive the site-specific education and signage benefits that would be provided to WT sites. Given the high level of use at many existing sites, including some sensitive sites, not providing the benefits of the WT may result in greater effects to resources than if the site were designated as part of the WT.

Also, the need for seasonal site closures will be determined as part of the trailhead designation process, and it will be up to the site owner/manager to decide whether such a closure is acceptable. If the site owner/manager determines that a seasonal closure is not acceptable, and

the WT determines that it would be necessary for designation, the site in question would not be designated as a WT site.

It bears emphasizing that this is a Programmatic EIR for a Plan encompassing the entire San Francisco Bay. The CEQA Guidelines provide this explanation of the nature of a programmatic EIR: "[w]here a lead agency is using the tiering process in connection with an EIR for a large-scale planning approval, such as a general plan or component thereof ..., the development of detailed, site-specific information may not be feasible but can be deferred, in many instances, until such time as the lead agency prepares a future environmental document in connection with a project of a more limited geographic scale, as long as deferral does not prevent adequate identification of significant effects of the planning approval at hand." (CEQA Guidelines, § 15152 (c).) In addition, the courts have recognized that a first tier programmatic EIR may lack the specificity otherwise anticipated in an EIR: "[t]iering is properly used to defer analysis of environmental impacts and mitigation measures to later phases when the impacts or mitigation measures are not determined by the first-tier approval decision but are specific to the later phases." Vineyard Area Citizens for Responsible Growth, Inc. v. City of Rancho Cordova (2007) 40 Cal.4th 412, 431.

To the extent that individual WT sites may require the implementation of specialized mitigation measures due to site-specific circumstances, those measures will be identified from among those already described in this EIR or another appropriate environmental document.

Deferral of the specifics of mitigation is permissible where the public entity commits itself to mitigation and lists the alternatives to be considered, analyzed and possibly incorporated into the project. *Defend the Bay v. City of Irvine* (2004) 119 Cal.App.4th 1261, 1276. Finally, deferral may be permitted for kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process, in which case the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval. *Sacramento Old City, supra*, 229 Cal.App.3d at 1028-1029.

For the most part, mitigation measures for the potentially significant effects of the WT Plan, as identified in the DREIR, were not deferred. There were a full range of *alternative* mitigation measures that were fully and clearly stated and assessed for each potentially significant impact. What was deferred was the extent to which any one or more of these mitigation measures might be made applicable to a given site. That can only be done by a WT site assessment that takes into account the nature of the site, its location and the particular circumstances that may create the potential for a significant effect on a given resource.

The following references are added to Chapter 6, Section 6.2: Hall, Troy E.; Ham, Sam H.; and Lackey, Brenda K. 2010. *Comparative Evaluation of the Attention Capture and Holding Power of Novel Signs Aimed at Park Visitors* in Journal of Interpretation Research. January 1.

Ham, Sam H. 2007. Can Interpretation Really Make a Difference? Answers to Four Questions from Cognitive and Behavioral Psychology in Proceedings of the Interpreting World Heritage Conference, pp. 42 – 52. March.

-----. 2009. *From Interpretation to Protection: Is There a Theoretical Basis?* in Journal of Interpretation Research, Volume 14, No. 2, pp. 49 – 57. July 1.

Ham, Sam H.; Weiler, Betty; Brown, Terry; Curtis, Jim; and Poll, Mark. 2008. Asking Visitors to Help: Research Guide to Strategic Communication for Protected Area Management.

Lackey, Brenda K; Ham, Sam H.; and Hall, Troy E... 2002. Tests of Perceived Risk and Attention Paying to Bear Safety Signs in Yosemite National Park. December 20.

<u>United States Fish and Wildlife Service.</u> 2007. Recovery Plan for the Pacific Coast Population of the Western Snowy Plover. August 13.

Widner, C.J., Roggenbuck, J. (2000). Reducing theft of petrified wood at Petrified Forest National Park. Journal of Interpretation Research, 5(1): 1-18.

Winter, Patricia L. (2006). The Impact of Normative Message Types on Off-Trail Hiking. Journal of Interpretation Research, 11(1): 35-52.

## 2.1.4 MASTER COMMENT RESPONSE 4: PROPOSED ADDITIONS OR CHANGES TO THE LIST OF BACKBONE SITES INCLUDED IN THE WT PLAN

#### Summary of Comments:

Multiple comment letters suggested specific changes to the list of sites included in the DREIR. These changes included proposed additions of sites (planned or existing), proposed reclassification of sites from non-HOS to HOS or vice-versa, corrections to site names and/or ownership information, a change of status for sites once "planned" but which are now "existing," and corresponding changes to figures that include the Backbone Sites. Some comment letters provided supplemental information on the suitability of certain sites as WT trailheads.

#### Response:

The Conservancy appreciates the information provided. This information will be incorporated into the trailhead designation process and future publicly available media, as appropriate. For the FEIR, only site owner information was corrected. The WT Trail EIR analyzes the draft WT Plan from 2007, which included a specific set of Backbone Sites, and therefore new sites cannot be added to the list during the EIR process, nor can the site status be changed from non-HOS to HOS in the EIR. Similarly, site names were defined in the WT Plan; corrections to site names and the status of sites as existing or planned will be made in the future (during the trailhead designation process, which will precede the outreach and publicity effort for each site).

New sites can be added at any time in the future at the request of the site owner/manager, as is clearly described in the DREIR (see Section 2.3.2). The WT Program anticipates that sites will continue to be added and information updated throughout the life of the WT. Information

regarding site ownership was corrected for the following sites: A24 – Jarvis Landing, A27 – Coyote Hills, A30 – Hayward's Landing, M30 – San Quentin, and SC2 – Alviso Marina.

## 2.1.5 MASTER COMMENT RESPONSE 5: RESOURCES FOR AND COORDINATION OF LAW ENFORCEMENT ACTIVITIES

#### Summary of Comments:

A number of comment letters expressed concerns about the resources available to local law enforcement to respond to incidents on the water, and the need for more coordination among public safety agencies, especially where multiple jurisdictions/agencies could potentially be available or required to respond. Some comment letters suggested that the WT could provide resources for law enforcement, such as boats.

#### Response:

As discussed in the DREIR (Section 2.2.2 and 3.3.2), potential growth in NMSB use attributable solely to implementation of the WT is expected to be very small compared to the baseline growth in use attributable to regional population growth and trends in NMSB use. Thus potential increases in demands on public services, including law enforcement and emergency services, attributable solely to implementation of the WT are expected to be very small. Nonetheless, the education and signage program would have a strong safety element, and that education and signage would be available to all boaters. The WT will draw on expert advice from the U.S. Coast Guard, Cal Boating, and the Harbor Safety Committee in developing the safety element of the educational program. Given the extensive focus on safety, increased use of NMSBs attributable to the WT is not expected to have a significant impact on law enforcement and emergency response resources, and improved coordination and the safety education and signage to be provided as part of the WT may help to reduce the burden on law enforcement and emergency response providers.

In addition, Supplemental Strategy 26 (Appendix H in the DREIR), as revised below, calls for inclusion of an incident reporting system in the WT program.

26. Navigational Safety
Develop and implement
comprehensive safety
education guidelines,
including minimum content
standards for safety
education, provide safetyoriented signage, and
encourage improved
dissemination of
information on safetyrelated incidents.

Education is a key component of the WT Plan. This strategy emphasizes the importance of providing consistent, effective navigational safety information. Safety education for non-motorized small boat users is currently provided on an ad hoc basis by various organizations. The proposed guidelines and the minimum content would ensure that safety training provided by various organizations would meet a minimum standard. The WT would serve as a centralized forum for safety-related information so updated safety information can be provided more easily to the potentially large number of individuals who provide safety education. The goal of the safety education program would be to develop a "safety ethic" among WT users and encourage boaters to report safety-related incidents. Safety-related signage may be used to remind boaters both about basic safety principles (e.g., use of PFDs), and to identify potential safety risks in the vicinity of an access site. Improved reporting and on-going sharing of information about incidents is an effective means

of identifying safety concerns (such as facility design issues and
vessel use conflicts) and helping boaters understand the potential
implications of their actions. <u>Improved incident reporting will be</u>
<u>facilitated through the development of a web-based comment</u>
form/reporting system with appropriate links to Cal Boating and the
<u>USCG.</u>

Improved incident reporting would result in more consistent and reliable data, and would help local and regional law enforcement and emergency response agencies to better plan and prepare for NMSB-related incidents. Finally, Table 2.4.3-1 (Site Description Components) will be revised to specifically review the potential for inter-jurisdictional law enforcement or emergency response concerns (see revised Table 2.4.3-1 at the end of this Comment Response 5).

Although the potential impact of the WT on law enforcement and emergency services is expected to be less than significant, the authors of this group of comment letters appear to have identified an *existing* regional problem regarding interagency and interjurisdictional coordination of law enforcement and emergency response. Because the WT is a regional program it provides an opportunity to conduct regional planning. As such, the WT may host a meeting of responsible agencies to brainstorm ideas, and/or encourage similar types of activities. However, the WT is not and will not be the appropriate organization to lead and/or implement such an interagency effort in the long term, and the level of impact potentially resulting from implementation of the WT does not require any such mitigation. This type of coordination is more appropriately conducted under the auspices of the Harbor Safety Committee, USCG and/or Cal Boating.

TABLE 2.4.3-1 SITE DESCRIPTION COMPONENTS

Information Category	Types of Information Provided in Site Description
General site information	Location, ownership and manager
Maps, site pictures, plans and/or drawings (if applicable)	Existing site facilities and features Habitat areas Location of various uses on the site Proximity to other launch and destination sites
Manager's/owner's goals for the site	Site master plans, use plans, general plan policies, and zoning
Use of the site	Boating and non-boating uses <u>User groups</u>
Description of existing or planned facilities, and compliance with pending ADA-ABA Accessible Guidelines	Launch (type[s] of launch[es] or landing[s]) Current and expected user groups and usage Parking (amount available for trail-related use, restrictions, fees, drop-off spots, distance to launch) Restrooms (number, type) Other boating-related facilities (such as staging areas, boat storage, or wash stations) Overnight accommodations Signage
Education, outreach and stewardship	Description of existing and planned programs
Description of existing and planned	Maintenance staffing levels

Information Category	Types of Information Provided in Site Description		
site management	Maintenance provided		
	Level of management (e.g., pick up trash only, or active enforcement of user behavior)		
Physical access considerations	Nearby good boating areas		
	User conflicts		
	Availability of public transportation;		
	Security concerns/vandalism		
Wildlife and habitat considerations	Nearby harbor seal haul out or other sensitive wildlife or habitat area		
	Wildlife viewing or interpretive opportunities		
	Restoration projects at or in the vicinity of the site		
	Potential for habitat restoration at the site		
Safety considerations	Strong currents nearby		
	Adjacent to a safety exclusion zone		
	Water quality concerns		
	Navigational risks		
	Potential for interjurisdictional or interagency law enforcement and emergency response		
	<u>concerns</u>		
Other existing and/or anticipated			
WT-related issues and			
opportunities			

## 2.1.6 MASTER COMMENT RESPONSE 6: COMPLEXITY OF TRAILHEAD DESIGNATION PROCESS AND RELATED CEQA AND PERMIT REQUIREMENTS

#### Summary of Comments:

A group of comment letters expressed a concern that the trailhead designation process is too complex and lengthy, and would discourage site owner/manager participation in the WT. These authors also requested clarification regarding applicability of CEQA to trailhead designation when only minor activities (e.g., signage) are required. Some authors stated that they believed that in general, most WT-related activities, including many site improvements, would not be subject to CEQA or could be performed under a categorical exemption.

#### Response:

The trailhead designation process described in the DREIR is the same process described in the WT Plan, and is required as a result of the WT Act. The DREIR provides added detail regarding how several steps in the trailhead designation process would be accomplished, and clarifies the CEQA requirements for the lead agency applying for trailhead designation. The process is orderly and transparent, and has been designed to allow for public input.

As described in the DREIR, a site description would be required for all potential WT trailheads. The information in the site description would be compiled by WT staff in collaboration with the site owner/manager and is required for the WT public outreach materials as well as the trailhead designation process. The contents of the site description are listed in Table 2.4.3-1. The level of detail required in the sign plan is the same as what would be required to order the signs, so there is no extraneous work involved in this step. Given that most sites are owned and operated by public agencies that will already have a management plan for their public parks, the information

needed for the site description should be very easy to provide to WT staff, who will compile the information into a report format. Trailhead plans will be compiled in a similar manner, with the leadership and assistance of WT staff. They are an extension of a site description plan and their development should be straight-forward for any publicly-owned site.

Regarding CEQA, the WT Environmental Effects Checklist (Appendix E of the WT DREIR) would be used to identify sites that 1) do not pose any potential resource impacts, or 2) potentially pose the resource impacts identified and addressed by mitigation in the EIR, or 3) present potential resource impacts not identified in the WT EIR. Use of this checklist would constitute adequate CEQA documentation for sites in the first two groups described above. For sites from the second group, mitigation measures would be applied as already described in the DREIR and appropriate to the site. Cumulative impacts have also already been addressed in the DREIR. Impacts from minor activities such as signage are addressed in the DREIR.

If the WT EIR does not address the resource issues presented by a site-specific project (the third group above) and that project has already been assessed under another agency's CEQA documentation, the Conservancy may be able to use that agency's existing CEQA document as the basis for its trailhead designation decisions. (The Conservancy would still have to make its own findings on that CEQA document as a responsible agency before the final designation decision could be made by the PMT.) If neither the WT programmatic EIR nor another existing CEQA document provides appropriate mitigation measures for a specific site, then the lead agency for the site may "tier off" of the WT EIR with an addendum or other CEQA document that will provide the extra analysis and any additional mitigation measures needed.

#### 2.1.7 Master Comment Response 7: CEQA SIgnificance Thresholds

#### Summary of Comments:

Several comment letters included comments suggesting that the significance criteria used in the DREIR were faulty – either too stringent or too vague, and that in one case they did not follow established CEQA guidance regarding the development of significance criteria.

#### Response:

The guiding principle in determining whether or not a particular environmental effect is "significant" is provided in CEQA Guidelines § 15064: "The determination of whether a project may have a significant effect on the environment calls for careful judgment on the part of the public agency involved, based to the extent possible on scientific and factual data."

In the absence of adopted significance thresholds or mandatory findings of significance under Guidelines §15065, wide discretion is given to the lead agency to determine "significance" of an environmental effect under this standard. So long as the determination is supported by substantial evidence in light of the record as a whole, the lead agency is given wide latitude.

The mere assertion that the "threshold" used by the lead agency to determine significance is "too low" or "too high" need not be given credence, in the absence of scientific or factual data to support those views. "Argument, speculation, unsubstantiated opinion or narrative, or evidence that is clearly inaccurate or erroneous, or evidence that is not credible, shall not constitute

substantial evidence. Substantial evidence shall include facts, reasonable assumptions predicated upon facts, and expert opinion support by facts." Guidelines § 15064(f)(5).

In fact, the majority of the significance criteria used in the DREIR are taken directly from Appendix G of the CEQA Guidelines (the CEQA checklist), including one of the significance criteria that was criticized as being too vague.

#### 2.1.8 MASTER COMMENT RESPONSE 8: CEQA ANALYSIS ISSUES

Summary of Comments:

Several comment letters raised issues with the CEQA process and analysis as performed in this document. The comments generally fell into the following categories:

- 1. Assertions that the WT EIR is incorrectly defining the baseline for the project. Specific comments included:
  - Most construction activities should be considered part of the baseline and should be categorically exempt.
  - o CEOA review for most designation decisions should be limited.
- Several statements that the delay caused by the WT and the trailhead designation process constitutes an adverse impact under CEQA because the benefits of implementing the WT are delayed
- 3. Disagreements with the estimated growth in NMSB use associated with the implementation of the WT, including:
  - o The projected growth estimate is too low and document should include a reasonable worst case scenario in terms of growth.
  - o The projected growth estimate is inaccurate or inconsistently applied.
  - o The projected growth estimate is too high.

#### Response:

1. Under CEQA, a project baseline is defined as the conditions that are in existence at the time the Notice of Preparation is issued, and also includes projected growth in activities that would occur absent the project (e.g., for a traffic analysis, the project's contribution to the expected increase in traffic is the potential impact evaluated; the evaluation does not include all growth in traffic). The baseline for the WT is structured the same way: the document analyzes the growth in NMSB use and associated facilities that may occur as a result of the implementation of the WT. However, the WT Plan in its entirety applies to all sites that may choose to join the WT, whether this site may or may not have chosen to construct new facilities absent the WT. The fact that a potential WT site may have chosen to construct new facilities or upgrade existing facilities absent the WT, and that some of those activities may have qualified for a categorical exemption is not relevant to the CEQA review required pursuant to the WT Plan.

It should be noted, however, that CEQA review of individual sites conducted pursuant to the WT may be streamlined by tiering off of the EIR, and for many sites, the review will consist simply of verifying through a checklist approach that the impacts for that site have been considered and are adequately mitigated by the measures already identified and analyzed in this EIR. Sites with potentially more significant construction-related impacts would likely also have had to undergo more detailed CEQA review had they not

been included in the WT. The primary difference between the status quo for CEQA review and the level of CEQA review that would be conducted pursuant to implementation of the WT is that the WT recognizes the potential regional effects of minor impacts occurring at a larger number of WT sites. Thus, potential impacts that would not be considered significant if only one site is considered may be significant if 100 sites are considered. This situation is similar to the case of a housing development: while obtaining permission to build a single home is typically a ministerial action by an agency, if a developer requests permission to construct 100 homes, CEQA review would normally be required.

- 2. Not implementing a project does not constitute an impact under CEQA. While not implementing a protective action could result in effects to the environment, by definition, no action cannot create an impact. Thus, while not implementing the WT may result in delays in the benefits that would result from implementing the WT, the delays do not create an impact under CEQA.
- 3. For this EIR, a major challenge was to forecast the future overall increase in non—motorized small boating on the Bay and the increase in such boating activity potentially attributable to the implementation of the Water Trail Plan. The drafters of the EIR have undertaken an exhaustive search for and review of the relevant available information and data that can be found on non-motorized small boat use on the Bay. The DREIR presents that information and includes a full and complete explanation of the reasoned analysis of that information that was used to reach its central conclusions on this issue. Guidelines §15151 provides that the "sufficiency of an EIR is to be reviewed in the light of what is reasonably feasible" and that "the courts have looked not for perfection but for adequacy, completeness, and a good faith effort at full disclosure." In a similar vein, Guidelines §15144 observes that: "Drafting an EIR … necessarily involves some degree of forecasting …" and while "foreseeing the unforeseeable is not possible an agency must use its best efforts to find out and disclose all that it reasonably can." [Emphasis added].

## 2.2 Responses to Comments from Federal, State, and Local Agencies

## 2.2.1 RESPONSES TO COMMENTS FROM THE UNITED STATES DEPARTMENT OF THE INTERIOR - UNITED STATES FISH AND WILDLIFE SERVICE (USFWS)

Comment USFWS-1

Response: Please see Master Comment Response 1.

Comment USFWS-2

Response: Please see Master Comment Response 2.

Comment USFWS-3

Response: Please see Master Comment Response 3.

#### Comment USFWS-4

*Response*: The sign guidelines to be developed for the WT Program will be consistent with Shoreline Spaces: Public Access Design Guidelines for the San Francisco Bay (BCDC, 2005a) and Shoreline Signs: Public Access Signage Guidelines (BCDC, 2005b). Topics relevant to the Water Trail and marsh locations, but not covered in these two documents, will be included in supplemental WT sign guidance.

Chapter 6, Section 6.2, page 6-17 following the entry for San Francisco Bay Conservation and Development Commission (BCDC) is revised as follows:

-----. 2005<u>a</u>. Shoreline Spaces: Public Access Design Guidelines for the San Francisco Bay. <u>April.</u>

-----. 2005b. Shoreline Signs: Public Access Signage Guidelines. August.

#### Comment USFWS-5

*Response*: The first sentence under Section E.2 is revised to read: The San Francisco Bay Area Water Trail project would implement the Water Trail Plan through a trailhead designation process designed to support improved and safer non-motorized small boat (NMSB) access to San Francisco Bay, and protection of environmental resources through careful consideration of potential impacts related to implementation of the Plan.

#### Comment USFWS-6

Response: Comment noted.

#### Comment USFWS-7

*Response*: Comment noted. The document uses the term "salt ponds" to refer to areas that are or were diked off from tidal action for the purpose of harvesting salt. Many of these areas are no longer active salt ponds.

#### Comment USFWS-8

*Response*: Comment noted. This information will be incorporated into the education, signage, and public outreach programs. It is currently noted on p. 3-38 as a potential navigational safety issue. Further, Mitigation Measure Bio-M12 (p. 3-145) includes the following provision: To further discourage landings in sensitive habitat, educational materials shall also remind boaters about the possibility of becoming stuck at low tide if they pull out in the marsh.

#### Comment USFWS-9

Response: See Master Comment Response 4.

#### Comment USFWS-10

Response: See Master Comment Response 5.

#### Comment USFWS-11

*Response*: The site owner/manager has control over whether a site is added to the WT. If a site owner/manager chose not to participate, the site would not be included in any WT materials (maps, website info, brochures, etc.). Similarly, if a site owner/manager initially chooses to participate, but then determines that s/he lacks the resources to maintain/manage the

trailhead, the site owner/manager could request undesignation as a WT site to be removed from published materials. In addition to decisions made by the site owner/manager, the WT program also includes regular reviews of trailheads to ensure that they continue to meet the requirements of the WT. Should a trailhead fail to meet the criteria, and the site owner/manager is unable to, or refuses to make the necessary changes, the site may be undesignated by the PMT.

#### Comment USFWS-12

Response: This category is the same as the category entitled "Non-Governmental Environmental and Wildlife Protection Organizations" on page 2-49. This Advisory Committee representative will complement the agencies charged with wildlife protection as part of their mission (USFWS, DFG, NPS, State Parks, and other public agencies) that are also represented on the Advisory Committee. The list of Advisory Committee Members on page 2-50 is revised to read:

- Accessibility expert
- Bay Access, Inc.
- California Association of Harbor Masters and Port Captains
- DFG
- State Parks
- County or local parks
- East Bay Regional Parks District
- Hospitality industry
- Outfitter/tour guide
- NPS
- Save the Bay
- USCG
- USFWS
- Non-governmental wWildlife and habitat protection organization

#### Comment USFWS-13

*Response*: The third paragraph on page 2-56 is revised as follows:

For potential WT sites located on federal lands, or managed by a federal agency, the federal agency would be required to comply with NEPA and conduct endangered species consultation in accordance with section 7 of the Endangered Species Act, as amended (16 U.S.C. 1531 et seq.) with respect to the designation or improvement of a WT site. Similarly, for sites requiring a discretionary federal permit, the federal permitting agency would have to comply with NEPA for the project elements subject to the permit, and conduct endangered species consultation. The Final Programmatic EIR for the WT may be used by the federal agency as a source document in undertaking environmental assessment or more detailed review under NEPA of the proposed designation or other activity related to the WT site.

#### Comment USFWS-14

*Response*: Comment noted. While it is correct that the status of many of the salt ponds has changed since the publication of the map that forms the basis of this figure, a more up to date map is not readily available, and the map used in this figure is the best available option. No changes have been made to the figure.

#### Comment USFWS-15

*Response*: Because the dates for the waterfowl hunting season change each year, it is not feasible to revise permanently posted signs each season. Instead, WT signs will include a website address with links to current hunting information. Many WT sites would provide access to areas where hunting may occur, assuming a NMSB could travel four miles from the launch site. However, contrary to the comment made, the majority of the Bay's (i.e., all of San Francisco Bay, not just the South Bay) navigable waterways are not open to hunting throughout the season. Mitigation Measure Rec-M4C will be revised as follows:

#### MITIGATION MEASURE REC-M4C: SAFETY SIGNAGE

Signage at trailhead locations within four miles of areas currently open to hunting shall include language that alerts NMSB users to the specific areas open to hunting (including dates) to help enable NMSB users to avoid these areas during the hunting season. A website address with linked information about specific seasonal dates and related safety information shall also be provided in the sign or other media at such sites.

#### Comment USFWS-16

*Response*: As stated in the text, they typically would be considered jurisdictional (as long as they meet the criteria for a wetland or other water of the U.S.).

#### Comment USFWS-17

Response: Comment noted.

#### Comment USFWS-18

*Response*: Comment noted. As also stated in the comment, this concept is discussed in more detail within this section.

#### Comment USFWS-19

Response: Mediterranean saltwort (Salsola soda) is the 11<sup>th</sup> entry in this table.

#### Comment USFWS-20

Response: Comment noted.

#### Comment USFWS-21

Response: Comment noted.

#### Comment USFWS-22

Response: Item three of Mitigation Measure Bio-M3 is revised as follows:

3. Trailhead owners/managers shall annually inspect trailhead locations for the development of new informal trail networks emanating from trailheads. If new informal trails extend into wetlands or other native shoreline vegetation, they shall be closed by placement of symbolic fencing and signage restricting access across vegetation. <u>Inspections shall be conducted annually</u>, or more frequently as determined by the sensitivity of the trailhead and the level of use occurring at the trailhead.

Please also see Master Comment Response 2.

#### Comment USFWS-23

Response: The text on p. 3-93 is reworded as suggested.

WATERBIRD USE OF SAN FRANCISCO ESTUARY: SEASONALITY AND ABUNDANCE

The season of peak use for all waterbirds combined is November through mid-March (Takekawa et al. 2000, Avocet Research Associates 2009); however, timing is highly somewhat variable year-to-year and some species may peak in abundance in early during fall migration (e.g., October) and others during spring migration (e.g., or late March).

#### Comment USFWS-24

*Response*: The references to unpublished and published (the *Waterbirds* paper) data are appreciated. The public is referred to the U.S. Fish and Wildlife Service, U.S. Geological Survey (USGS), and the San Francisco Bay Bird Observatory (SFBBO) if they wish to review these documents.

#### Comment USFWS-25

*Response*: Comment noted. This information is provided on page 3-98.

#### Comment USFWS-26

*Response*: Comment noted. See Comment USFWS-24 response above regarding unpublished manuscripts. The text for the "Wading Birds" bullet point on page 3-94 is revised as follows:

Wading Birds. This guild includes egrets, herons, and night herons that utilize emergent
marsh, marsh edge, and shallow open water habitats. These birds generally do not breed
inside marshes, instead forming nesting colonies in trees, generally form nesting colonies
in trees, but significant colonies of night herons, green herons, and to a lesser extent,
snowy and great egrets, nest in slough channels in bulrush-type vegetation in the estuary.
Within the salt/managed pond system, great blue herons also nest on duck blinds and
other structures.

#### Comment USFWS-27

Response: Comment noted.

The 2<sup>nd</sup> to last bullet on p3-94 is corrected as follows

• Gulls, Terns, and Skimmers. This guild includes gulls, terns, and skimmers that nest within the Estuary, including Forster's tern (Sterna forsteri), Caspian tern (Sterna caspia), California least tern (Sterna antillarum browni), black skimmer (Rhynchops niger), Although this guild includes many species of gulls, California gull (Larus californicus), and western gull (Larus occidentalis). are the sole species discussed in this EIR.

The text on page 3-99 is revised as follows:

#### CALIFORNIA GULLS, TERNS, AND SKIMMERS

Forster's terns, Caspian terns, California least terns, black skimmers, California gulls, and western gulls all breed within the Estuary. Forster's terns nest in small colonies, primarily on islands in managed ponds but also in marshes, throughout the Bay Area. Caspian terns also nest

on islands and levees within managed ponds, though most Bay-area-nesting Caspian terns nest on Brooks Island near Richmond. Most California least terns in the Estuary nest in a colony at the former Alameda Naval Air Station, where nearly 400 pairs breed (Elliott et al. 2007<sup>1</sup>). In addition, smaller colonies occasionally form in other Bay-area locations; currently, the two largest of these satellite colonies are near Montezuma Slough in Solano County, where up to 50 birds nested in 2010 (Rogers et al. 2010<sup>2</sup>), and the Napa Plant Site in Napa County, where 47 nests were recorded in 2010 (K. Taylor, DFG, pers. comm. 2010). Small numbers of black skimmers have nested in managed ponds and wetlands in South San Francisco Bay since 1993. Based on reports to *North American Birds* by regional editors over the past several years, up to 15 pairs likely breed in the Estuary, all in the South Bay.

California gull nesting was recorded in the Estuary for the first time in 1980. Colonies are concentrated in the South Bay salt ponds and at the former Alameda Naval Air Station (NAS). There are no known colonies in the North Bay (Ryan 2000a). They are the most abundant colonial nesting waterbird in the Estuary with 22,718 nests counted in the South Bay in 2008 (Schacter et al. 2008) and an estimated total of 46,800 breeding gulls (Ackerman et al. 2009). Western gulls nesting inside San Francisco Bay breed primarily on rocky islands (such as Alcatraz Island) in the Central Bay, though smaller numbers of pairs breed throughout the Estuary. Nests are clustered on salt pond levees and artificial islands in or near salt ponds and are vulnerable to mammalian predators in years when water levels recede before nesting is completed (Ryan 2000a). The nesting season is spring, with hatches in late May or early June. Roosting occurs on salt pond levees.

Comment USFWS-28

Response: The text on p. 3-95 is revised as follows:

#### **Diving Waterfowl**

Diving waterfowl include diving ducks, grebes such as the western grebe (*Aechmophorus occidentalis*), Clark's grebe (*Aechmophorus clarkii*) and eared grebe (*Podiceps nigricollis*), double-crested cormorants (*Phalacrocorax auritus*), and pelicans. Comment USFWS-29

Response: Comment noted.

#### Comment USFWS-30

*Response*: The Conservancy concurs with the FWS comment, but the Wading Birds section was intended to focus on colonial species. The text is modified as follows:

Five species of <u>large</u> wading birds <u>regularly</u> nest in or around the Estuary shoreline: snowy egret (*Egretta thula*), great egret (*Ardea alba*), great blue heron (*Ardea herodias*), green heron (*Butorides virescens*), and black-crowned night heron (*Nycticorax nycticorax*).

-

<sup>&</sup>lt;sup>1</sup> Elliott, M. L., R. Hurt, and W. J. Sydeman. 2007. Breeding biology and status of the California least tern *Sterna antillarum browni* at Alameda Point, San Francisco Bay, California. Waterbirds 30:317-325.

<sup>&</sup>lt;sup>2</sup> Rogers, M. M., J. N. Davis, E. R. Pandolfino, and S. C. Rottenborn. 2010. Northern California. Summer 2010 Regional Report for *North American Birds* (in press).

#### Comment USFWS-31

Response: See revisions to text as shown in response to comment USFWS-27.

#### Comment USFWS-32

Response: The table is modified as shown below.

TABLE 3.8.2-2. SENSITIVE BIRDS AND EXISTING LEVELS OF POTENTIAL DISTURBANCE

Name	Listing Status	Ecology and Bay Area Distribution	Existing Potential for Interaction with NMSBs
American bittern (Botaurus lentiginosus)	CDFG: Special Animals	Sparsely distributed in low densities in large patches of emergent monocot vegetation. More common in the fresher portions of the Bay and the northern reaches.	Low. Habitat preference and patchy distribution isolates this species from frequent contact with NMSBs
American peregrine falcon (Falco peregrinus anatum)	Delisted (ESA [1999] and CESA [2009]); FP	Year-round resident widely distributed around the Bay. Nests on bridges, towers, and buildings, often at bay edge. Forages primarily on waterfowl, shorebirds, and pigeons.	Low. Nest sites tend to be located inaccessibly and distant enough from water to avoid disturbance from NMSBs
Black oystercatcher (Haematopus bachmani)	CDFG: Special Animals nest sites	Present in small numbers in San Francisco Bay year-round, and nests in small numbers on rocky outcrops, abandoned wharfs and barges, and jetties, usually in inaccessible locations. Known nesting locations in the Estuary include Red Rock and Marin Islands in the Central Bay and Oyster Cove Pier in the South Bay.	Low to moderate. There are few nests and they are widely distributed around the Bay shore. Cryptic nests are typically located on substrate at the water's edge (rock jetties etc.), which places them close to probable travel routes of NMSBs.
California black rail (Laterallus jamaicensis coturniculus)	ST, FP	Resident population is confined almost entirely to San Pablo and Suisun Bays and restricted to the tidal and brackish marsh vegetation.	Low. Habitat tends to be away from the immediate edges of tidal channels; nest sites cryptic and obscured by dense vegetation.
California brown pelican (Pelecanus occidentalis californicus)	Delisted (ESA [2009] and CESA [2009]). Will require monitoring for five years.	Visitor to San Francisco Bay in non-breeding season, from May through November; forages in shallow nearshore waters. Flocks move throughout the more marine portions of the estuary system as the availability of prey shifts; however, there are some traditional roost sites in the vicinity of Fisherman's Wharf, Alcatraz Island, Alameda Point jetty, and Fort Cronkite, Sausalito.	Moderate. Some roost sites are located near high human activity centers including docks, piers, and breakwaters and sand spits. NMSBs are likely to flush roosting birds at ~50 m., especially from low-lying roost sites.
California clapper rail (Rallus longirostris obsoletus)	FE, SE, FP	Resident in SF Bay with entire population restricted to tidal marshlands of San Pablo, Central, and South Bays. Sloughs and channels along the Bay shore provide critical habitat with birds occupying vegetated marsh along the full range of tidal influence (see Figure 3.8.2-2).	Moderate to high. NMSBs may enter tidal sloughs and channels. Rails forage along channel slopes and nests tend to be associated with the headward extent of channels.
California least tern (Sterna antillarum browni)	FE, SE, FP	Active nesting sites are located at Alameda Naval Air Station, Montezuma Slough (Solano County), Pittsburg power plant (Contra Costa Co.), Napa Plant Site	Low to moderate, depending on season. Colonies are located away from expected watercraft thoroughfares and typically on

TABLE 3.8.2-2. SENSITIVE BIRDS AND EXISTING LEVELS OF POTENTIAL DISTURBANCE

Name	Listing Status	Ecology and Bay Area Distribution	Existing Potential for Interaction with NMSBs
		(Napa Co.), and Montezuma Slough wetlands (Solano Co.); these locations are shown in Figure 3.8.2-3 They have also nested historically at Oakland Airport and Bair Island.	protected properties where access is restricted. Overlap between NMSB routes and tern foraging habitat along the East Bay shoreline in summer (April-August) is likely.
Caspian tern (Hydroprogne caspia)	CDFG: Special Animals nesting colonies	Active nesting colonies of Caspian tern are located at Knight Island, Brooks Island, Coyote Hills, Alviso, Hayward Shoreline, former Alameda NAS, and Ravenswood Open Space Reserve.	Low to moderate. Most colonies are relatively inaccessible or remote. Colonies on islands could be accessible to NMSB users, such as at Brooks Island, which is protected only by signage. Roosting sites and foraging areas may overlap with NMSB use areas.
Colonial nesting wading birds: snowy egret (Egretta thula), great egret (Ardea alba), great blue heron (Ardea herodius), and black-crowned night heron (Nycticorax nycticorax)	CDFG: Special Animals Rookery sites	Colonial wading birds choose nesting sites for their isolation from intruders and their proximity to wetland feeding areas. Nesting sites are generally located in groves of trees or dense stands of shrubbery close to the Bay shore. May also nest in marsh vegetation and tidal creeks. On islands or other inaccessible sites, nests of night-herons, in particular, may be on the ground. Distribution of nesting sites around the Bay has been thoroughly documented in Kelly et al. 2006 (see Figure 3.8.2-4).	Moderate. Many colonies are located in trees or other inaccessible structures. Colonies on islands could be accessible to NMSB users. Some sites are protected and patrolled (e.g., Alcatraz Island). Others are protected only by signage (e.g., Brooks Island). Roosting sites and foraging areas may overlap with NMSB use areas.
Double-crested cormorant (Phalacrocorax auritus)	CDFG: Special Animals Rookery sites	A common colonial nesting waterbird in the Bay; major colonies are located at the Napa Sonoma Marshes Wildlife Area near Napa, in the Central Bay on the Richmond and Oakland-Bay bridges, and in the South Bay on the Dumbarton Bridge. Large foraging flocks move in and out of the Bay, often over deeper water, as prey availability shifts.	Low to moderate. Nesting colonies are mostly high, on man-made structures. Roosting sites and foraging area may overlap with NMSB use areas.
Elegant tern (Thalasseus elegans)	CDFG: Special Animals (nesting colony)	The elegant tern roosts in large flocks during migration (July-Sept) along sand spits, levees, breakwaters, islets, and other shoreline features. It does not yet nest in the Bay (but its distribution is expanding northward).	Moderate. Roosting flocks may occasionally be present in areas used by NMSBs, especially sandbars, jetties, islands, and low-lying flats.
Forster's tern (Sterna forsteri)	CDFG: Special Animals Nesting colonies	Forster's terns nest in many of the same locations as California least tern, snowy plover, and California gull, and often roost on undisturbed Bay beaches, jetties, etc. In the North Bay, Forster's tern nesting sites are associated with the Napa River salt ponds, notably at Russ Island, Knight Island, and White Slough. Numbers are higher in the South Bay where several dozen sites are associated with the Dumbarton (Ravenswood), Baumberg (Eden Landing), Coyote Hills, Hayward Shoreline, and Turk Island	Low to moderate. Colony locations are mostly inaccessible and protected, though incipient colonies may be prone to inadvertent disturbance.  Roosting sites and foraging areas may overlap with NMSB use areas.

TABLE 3.8.2-2. SENSITIVE BIRDS AND EXISTING LEVELS OF POTENTIAL DISTURBANCE

Name	Listing Status	Ecology and Bay Area Distribution	Existing Potential for Interaction with NMSBs
		ponds (Ryan 2000b).	
Least bittern (Ixobrychus exilis)	BSSC	Very rare inhabitant of fresh to brackish marshes with dense emergent monocot vegetation. More likely to occur in Delta than San Francisco Bay proper.	<b>Low.</b> Rarity of species and habitat preference reduces the risk of interaction.
Western burrowing owl (Athene cunicularia hypugaea)	CDFG: BSSC	Burrowing owls occur in lowlands and at the edge of tidal wetlands, especially in the non-breeding season. Typical nesting habitat consists of sparsely vegetated levees, especially where cavities in rubble, debris, rip-rap, or mammal burrows occur. This species is largely extirpated from former breeding sites around the Bay. Nearly all of the remaining nesting burrowing owls in the Bay area are between Palo Alto and the Fremont-Newark area of the South Bay (Trulio 2000). The only sites that support viable breeding populations are the NASA Ames Research Center and the San Jose Airport (Townsend and Lenihan 2007).	Low. Nesting sites are located away from water's edge. Winter roost sites may be in rip-rap of seawalls or levee berms (e.g., Cesar Chavez Park, Berkeley) and could be encountered by watercraft that approach close to these features.
Western snowy plover (Charadrius alexandrinus nivosus)	FT BSSC	SF Bay contains an estimated 5-10 percent of the nesting western snowy plovers in California (Page et al. 2000, USFWS 2007). Most nesting in San Francisco Bay is associated with emergent or dry salt pond beds, or sometimes levee roads. Breeding locations in the Estuary at Eden Landing Ecological Reserve/ Baumberg North, salt ponds at Oliver Salt Ponds, Dumbarton Salt Ponds, Warm Springs, Alviso, and Ravenswood. In the North Bay nesting occurs at Ponds 7 and 7A in the Napa Sonoma Marshes Wildlife Area and at the Montezuma Slough Wetland Restoration site (see Figure 3.8.2-3).	Moderate. Nest sites are mostly on access-limited sites or in pans away from watercourses. Nests on levees adjacent to sloughs and open baylands may be encountered by NMSB users. Roosting sites and foraging areas may overlap with NMSB use areas. (See text for prescriptions in the 2007 Recovery Plan.)

FE —Federally listed endangered

FT —Federally listed threatened

SE —California state listed endangered species

ST-California state listed threatened

FP-State Fully Protected

CDFG Special Animals (July 2009)

BSSC — California Bird Species of Special Concern (2008)

References:

Shuford, W.D. and T. Gardali. Eds. 2008

CDFG Special Animals (July 2009)— <a href="http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/spanimals.pdf">http://www.dfg.ca.gov/biogeodata/cnddb/pdfs/spanimals.pdf</a>

#### Comment USFWS-33

*Response*: Comment noted. No changes to the figure are proposed. A more detailed evaluation of near-by sensitive species habitat and nesting locations used by sensitive species will be conducted as part of the trailhead designation process for each proposed WT site.

# Comment USFWS-34

*Response*: Comment noted. The USFWS service designated recovery units in 2005. The recovery units identified, among other items, specific areas where Western Snowy Plover nesting had been recorded, and these locations are shown on the figure. No changes to the figure are proposed.

# Comment USFWS-35

Response: See response to comment USFWS-33.

#### Comment USFWS-36

*Response*: Marin Islands was added to Table 3.8.2-2 as a nesting location (see response to Comment USFWS-32, above).

# Comment USFWS-37

Response: The text is corrected as follows:

#### CALIFORNIA BLACK RAIL

The California black rail is state-threatened under the California Endangered Species Act and was formerly classified as a Category 1 taxon by USFWS, a candidate for federal listing as threatened. It is also included on the CDFG list of Fully Protected animals. The bulk of the western population (>90 percent) is confined to the remnant emergent tidal marshlands of the Bay (Evens et al. 1991, Evens and Nur 2002). The black rail is resident in the Bay. Vegetation at and above mean higher high water (MHHW) is a necessary habitat feature, providing refuge from predation for the birds during periods of extremely high tides (Evens and Page 1986, Trulio and Evens 2000). The breeding population in the Bay is confined almost entirely to San Pablo and Suisun Bays-(Figure 3.8.2 2). Black rail populations are highly dynamic, and abundance estimates are somewhat theoretical. The most recent estimate is of a population size range from 4000-7200 individuals in each of the two subregions (Evens and Nur 2002). The most valuable marshlands to rails are fully tidal and encompass dendritic networks of sloughs and channels which provide core habitat for nesting and foraging and therefore are of critical importance to rails.

#### Comment USFWS-38

Response: The text is corrected as follows:

# DOUBLE-CRESTED CORMORANT

CDFG removed the double-crested cormorant from its list of BSSC, but it is still on the CDFG's list of special animals out of concern for rookery sites. Since the 1970s, the double-crested cormorant has nested in small numbers around the Estuary, especially on transmission towers, bridges, snags and occasionally trees. It is a colonial nesting waterbird, now common in the Estuary, and major colonies are located at the Napa Sonoma Marshes Wildlife Area (Napa

County), in the Central Bay on the Richmond and Oakland-Bay bridges, on transmission towers in Steinberger Slough (Bair Island), in the ponds adjacent to Stevens Creek, and in the South Bay on the Dumbarton Bridge (Ainley 2000). The double-crested cormorant forages in flocks on open water and is regularly in the Estuary year-round. It is more common, however, in winter.

#### Comment USFWS-39

*Response*: Comment noted. No changes to the figure are proposed. A more detailed evaluation of near-by sensitive species habitat including nesting locations used by sensitive species will be conducted as part of the trailhead designation process for each proposed WT site. The figure reference in the text is corrected as follows:

#### WESTERN SNOWY PLOVER

The Pacific coastal population of western snowy plover is federally threatened (03/05/1993), a California BSSC, and a federal bird of conservation concern. Critical habitat was designated on September 29, 2005; a recovery plan was published on September 24, 2007. The number of adult plovers in San Francisco Bay declined from a high of 351 in 1977/80 to 99 in 2006, approximately seven percent of the species' California population. San Francisco Bay contains an estimated 5-10 percent of the nesting western snowy plovers in California (Page et al. 2000, USFWS 2007) (Figure 3.8.2-23). The goal of recovery is 500 breeding adults in San Francisco Bay (USFWS 2007). A Bay-wide survey in 2009 indicated the presence of approximately 147 adults<sup>3</sup>.

#### Comment USFWS-40

Response: The referenced text is corrected as follows:

# 3.8.4 REGULATORY SETTING

#### FEDERAL REGULATIONS AND PLANS

Federal regulations described in Section 3.7 of this document - Sections 7, 9, and 10 of the Endangered Species Act, Section 404 of the Clean Water Act, and Executive Order 11990 - also apply to the protection of birds. The Comprehensive Conservation Plans (CCPs) being prepared for the San Pablo Bay NWR and Don Edwards San Francisco Bay NWR will also address birds.

In addition, the following other text sections are corrected as shown: Page 3-23, 2<sup>nd</sup> bullet list:

In addition to specific routes of travel, there are also certain popular paddling areas in the project area. These include:

- China Camp Shoreline, Marin County
- Newark Slough, Don Edwards San Francisco Bay NWRSF Bay National Wildlife Refuge

<sup>&</sup>lt;sup>3</sup>http://www.fws.gov/arcata/es/birds/WSP/documents/2009%20Pacific%20Coast%20breeding%20SNPL%20survey.pdf

# Page 3-57, 1st full paragraph

# RURAL OPEN SPACE / AGRICULTURAL

Visually undeveloped open space lands along the Bay edge are largely confined to San Pablo Bay, the vicinity of Suisun Marsh, and sections of the South Bay including the Coyote Hills Regional Park and the <a href="Don Edwards">Don Edwards</a> San Francisco Bay <a href="NWRNational">NWRNational</a> Wildlife Refuge. Much of these areas are marshland, or wetland with sloughs and levees and, in the south Bay, salt ponds. A few of these areas have sandy or pebble beaches. The adjacent uplands may have trails or other recreational facilities, but these are visually subordinate to the vastness of the Bay and its margins. These landscapes are not dominated by prominent structures.

# Page 3-184, 1<sup>st</sup> full paragraph

Sites in the North Bay are typically in marinas, parks, and wildlife refuges. Sites located along the East Bay range from parks (e.g., A5, Shorebird Park, Emeryville) and marinas (e.g., A2, Berkeley Marina Ramp) to commercial areas (A9, Jack London Square/CCK) and salt ponds (A24 Jarvis Landing, Newark). A large portion of the southern Bay margin falls within the Don Edwards San Francisco Bay NWR National Wildlife Refuge (including SM25, Corkscrew Slough Viewing Platform, Redwood City and A24 Jarvis Landing, Newark). On the western shore of the Bay, sites are located adjacent to parks (SF2, India Basin Shoreline Park, San Francisco), marinas (SM6, Docktown Marina, Redwood City), commercial areas (SF10, Aquatic Park, San Francisco), and industrialized areas (SF1, Candlestick Point State Recreation Area).

# Page 185, 2<sup>nd</sup> to last full paragraph:

USFWS manages areas proposed for three Backbone Sites in National Wildlife Refuges. Two of these (SM25, Corkscrew Slough Viewing Platform, Redwood City; and A24, Jarvis Landing, Newark) are part of Don Edwards San Francisco Bay <a href="NWR National Wildlife Refuge">NWR National Wildlife Refuge</a>, which encompasses land both north and south of the Dumbarton Bridge and around the shoreline of the South Bay (USFWS 2003). The Jarvis Landing site is co-managed with the salt producer, Cargill. Site A27, Coyote Hills, is on an Alameda County Flood Control District levee, outside of the Don Edwards <a href="San Francisco Bay NWR National Wildlife Refuge">San Francisco Bay NWR National Wildlife Refuge</a>. It is managed by the East Bay Regional Park District (EBRPD). An additional site is planned for the San Pablo Bay NWR at the southwest corner of the Cullinan Ranch site, immediately north of Highway 37, but due to the timing of the planning process, this site was not included in the WT Plan. [For the above paragraph, please also see revisions pursuant to USFWS Comment 60.]

#### Comment USFWS-41

Response: Comment noted. The document provides the definition for incidental take and then expands on the definition of the term "harass" as follows: "Harass means "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering. <sup>4</sup>" (see p. 3-7). Educational materials for the WT will inform WT users that disturbance of birds may also be considered incidental take. The DREIR addresses the need to minimize disturbance, and therefore addresses the potential incidental take associated with implementation of the WT. As with other potential impacts associated with implementation

<sup>&</sup>lt;sup>4</sup> 50 C.F.R 17.3

of the WT, it is important to remember that the potential increase in use associated solely with the implementation of the WT (as opposed to population growth and other demographic factors) is likely to be small, and therefore the potential for disturbance due solely to the implementation of the WT is also likely to be small. Furthermore, the educational program will be available to all NMSB users as well as other users of the WT trailheads, and thus may contribute to a net reduction in disturbance compared to the No Project Alternative.

# Comment USFWS-42

*Response*: Wildlife viewing etiquette for all NMSB users, including photographers, will be part of the WT educational and outreach materials.

# Comment USFWS-43

Response: Please see Master Comment Response 3.

Comment USFWS-44

Response: Comment noted.

Comment USFWS-45

Response: Please see Master Comment Response 3.

# Comment USFWS-46

Response: The last paragraph on Page 3-124 is revised as follows:

For the most part, wading birds and shorebirds would be protected from NMSB disturbance because of their habitat preference for tidal flats or very shallow (less than 10 cm) water, which are undesirable use areas for NMSBs. High tide roosts, however, may be susceptible to disturbance during periods of high water. Small numbers of long-legged waders (e.g., egrets and herons) that forage in shallow water may be flushed by shallow-draft watercraft, but this is likely to be a limited occurrence. Similarly, because brown pelicans are plunge divers and use deeper channels for foraging, they may avoid these areas while NMSBs are present. However, NMSBs are rarely stationary, and therefore deep channels would quickly become available again for foraging. In addition, WT education and public outreach strategies are expected to sensitize users to disturbance issues and further buffer flocks from close approach by watercraft. Therefore, this impact would be less than significant for shorebirds and wading birds and brown pelicans and no mitigation is required.

# Comment USFWS-47

Response: The last paragraph on Page 3-127 is revised as follows:

Clapper rails have territories that encompass the dendritic channel systems that develop in a large marsh. The intertidal portions of the channels provide foraging opportunities, but the nest sites are located at or above mean high tide elevations, often at the headward extent of the channel system, or on the upper marsh plain, under dense vegetation (e.g., gumplant bushes). These nest sites are most often immediately adjacent to a channel, many of which are navigable by shallow-draft NMSBs. Human intrusion into tidal marsh habitat where clapper rails are actively nesting would likely disturb incubating or brooding birds, potentially reducing reproductive success. If NMSB users disembarked in a marsh occupied by clapper rails, they could disturb breeding pairs (possibly to the point of abandonment of nests, eggs, or young), step on chicks, and possibly

destroy active nests, which are often located along the edges of channels that may be used by boaters. A lost nesting effort, even by a single pair, may have population-level implications for this critically-endangered species.

#### Comment USFWS-48

*Response*: The 700-foot buffer distance is equal to 213.36 meters. A conversion to meters will be added to the educational materials.

# Comment USFWS-49

Response: The first paragraph of Mitigation Measure Bio-M8 is revised to read:

MITIGATION MEASURE BIO-M8: AVOID DISTURBANCE OF CALIFORNIA CLAPPER RAILS AND CALIFORNIA BLACK RAILS

Educational materials prepared by the WT in accordance with WT Strategy 17, as described for Mitigation Measure BIO-M5 above, shall include discussion of California clapper rails and California black rails. This discussion shall include the laws protecting these listed species, habitat used by these species, the importance of avoiding both nesting habitat and high-tide refugia (during extremely high tides), the importance of not physically entering any vegetated marsh supporting these species, and appropriate buffer distances for these birds. There is no universally recognized buffer distance that has been identified for avoiding disturbance of these two species. For the South Bay Salt Ponds Restoration Project, the USFWS (2008) recommended a 700-foot buffer between construction activities and clapper rail habitat during the breeding season (January through August [USFWS 2000]). Although noise and activity associated with NMSB users is substantially less than that associated with construction activities, NMSB users have the potential to approach very close to the marsh habitat along tidal channels that is most important to clapper rails, or even enter marshes that support rails via smaller channels. Therefore, the WT's educational materials shall indicate that a 50-ft buffer from clapper rail and black rail habitat should be maintained during the breeding season, and that a 50ft buffer from high-tide refugia during extremely high winter tides should be maintained by NMSB users. During other periods of the year and non-high-tide events, boaters should not land on or disembark into vegetated marshes that could support rails. Educational materials will clarify that entry into marshes on USFWS Refuge property is prohibited throughout the year, and that NMSB users should avoid landing in or disembarking into any marsh habitat.

# Comment USFWS-50

Response: Comment noted. Please see also Master Comment Response 3.

#### Comment USFWS-51

Response: The text was modified as requested.

IMPACT BIO-10: POTENTIAL INCIDENTAL TAKE OF SENSITIVE SPECIES

As described in Section 3.2, take means to "harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, or collect or attempt to engage in any such conduct," and includes significant habitat alteration where such alteration kills or injures a listed species through impairment of essential behavior." Harass means "an intentional or negligent act or omission which creates the likelihood of injury to wildlife by annoying it to such an extent as to significantly disrupt normal

behavioral patterns which include, but are not limited to, breeding, feeding, or sheltering." Incidental take could occur if WT users damage nests; step on eggs or chicks or small animals such as a salt marsh harvest mouse; disturb adults of any species so that predators can gain access to the young can kill adults and chicks or prey on eggs; or flush birds to such a degree that fitness is impaired. Incidental take could also result from habitat damage, as discussed and addressed in Section 3.7. Increased NMSB use could lead to an increase in incidental take. This impact is **potentially significant but mitigable**. The potential forms of incidental take are addressed individually in Impacts Bio-5 through Bio-8. Implementation of Mitigation Measures Bio-M5, Bio-M6, Bio-M7, and Bio-M8 would reduce this potential impact to a **less than significant** level.

# Comment USFWS-52

Response: The second paragraph of Impact Bio-11 is revised to read:

As determined by the USFWS, construction activities that occur from February 1 through August 31 within 700 feet of the center of a clapper rail territory may have adverse impacts on nesting success (James Browning, USFWS, pers. comm. May 27, 2008). Impacts could also occur during the non-breeding season if clapper rails are prevented from using high tide refugia; both mortality and predation rates could be increased. Clapper rail protection requirements, when implemented, would also avoid potential construction-related disturbance of California black rails and other marsh birds.

#### Comment USFWS-53

Response: Mitigation Measure Bio-M11 is revised to read:

MITIGATION MEASURE BIO-M11: AVOID DISTURBANCE OF CALIFORNIA CLAPPER RAILS AND CALIFORNIA BLACK RAILS DUE TO CONSTRUCTION ACTIVITIES AT LAUNCH SITES

The trailhead designation process shall include evaluation of the potential for construction to adversely affect sensitive marsh bird habitat. If presence of nesting California clapper rails or California black rails is possible, either protocol-level surveys shall be conducted during the appropriate season (i.e., between January 15 and April 15 for the clapper rail [USFWS 2000] and between March 15 and May 31 for the black rail [PRBO undated]), or it may be assumed that rails are present. If either species is determined or assumed to be present within 700 feet of the construction area, construction shall be scheduled to occur only from September 1 through January 31 (or as otherwise modified with approval of the USFWS and CDFG) to avoid the nesting season. In addition, construction activities during winter high tides shall be restricted because construction under these conditions could flush rails from high tide refugia or prevent them from seeking cover in these areas.

Comment USFWS-54

Response: Comment noted.

Comment USFWS-55

Response: The following paragraph on Page 3-139 is revised as indicated.

<sup>5</sup> 50 C.F.R 17.3

\_

#### **Salt Marsh Harvest Mouse**

The salt marsh harvest mouse (*Reithrodontomys raviventris*) is endemic to the Bay Area, where its two subspecies inhabit the southern and northern reaches of the San Francisco Estuary (*R. r. raviventris* – San Francisco Bay; *R. r. halicoetes* – San Pablo Bay and Suisun Marsh, Contra Costa shoreline marshes; Shellhammer 2000a). It is federally- and state-listed as endangered, and is also a fully protected species under the California Fish and Game Code.

#### Comment USFWS-56

*Response*: The last paragraph of IMPACT BIO-12 is revised as follows:

With implementation of <u>Mitigation Measure Bio-M-11[as revised, above]</u>, Mitigation Measure Bio-M12, and Mitigation Measures Bio-M2 and Bio-M3, both described in Section 3.7, this potential impact would be less than significant.

# Comment USFWS-57

*Response*: Posting tide charts is impractical. However, pictures showing nearby shorelines at low versus high tide may be effective and will be considered when site signs are developed. In addition, the safety education program will address stranding during low tide.

# Comment USFWS-58

Response: The first bullet under Mitigation Measure Bio-M16 is revised as follows:

• Trailhead owners/managers shall provide adequate waste disposal containers, shall ensure that waste disposal containers are inaccessible to non-native predators (Norway rats, feral cats, red fox) to the greatest extent feasible, and shall ensure that trash is picked up frequently.

#### Comment USFWS-59

*Response*: Each site owner/manager will have its own predator management policy. The need for predator management as a condition of trailhead designation will be evaluated on a site-by-site basis. However, most sites are expected to have multiple user groups, and it would be impossible to distinguish whether any increases in predator populations are attributable to the small growth expected from implementation of the WT, population-driven (baseline) growth in NMSB use, and/or other user groups.

# Comment USFWS-60

Response: The referenced paragraph on Page 3-185 is revised as follows: USFWS manages one area proposed as a Backbone Site. Sites in National Wildlife Refuges: SM25, Corkscrew Slough Viewing Platform, Redwood City; and A24, Jarvis Landing, Newark) are is part of the Don Edwards San Francisco Bay NWR National Wildlife Refuge, which encompasses land both north and south of the Dumbarton Bridge and around the shoreline of the South Bay (USFWS 2003). The Jarvis Landing site is co-managed with the salt producer, Cargill. Site A27, Coyote Hills, is on an Alameda County Flood Control District levee, outside of the Don Edwards National Wildlife Refuge. It is managed by the East Bay Regional Park District (EBRPD). An additional site is planned for the San Pablo Bay NWR at the southwest corner of the Cullinan Ranch site, immediately north of Highway 37, but due to the timing of the planning process, this site was not included in the WT Plan.

In addition, Table 2.3.2-1 has been revised as follows:

A24	Jarvis Landing	EL		private	Newark	ramp	privately owned (business)	US Fish and Wildlife Service/ Cargill
A25	Tidewater Boathouse	PL		public	Oakland	1	public boat launch ramp/float	EBRPD
A26	Berkeley Marina, Small Boat Launch	EL	Y	public	Berkeley		public boat launch ramp/float	Berkeley Marina, Harbormaster
A27	Coyote Hills	PD		public	Fremont	N/A	public access area	EBRPD/Alameda Co. Flood Control

# Comment USFWS-61

Response: Comment noted.

# Comment USFWS-62

*Response*: Comment noted. This text is part of Appendix A, the Initial Study, which was published in 2007.

# 2.2.2 RESPONSES TO COMMENTS FROM THE UNITED STATES DEPARTMENT OF THE INTERIOR - NATIONAL PARK SERVICE (NPS)

#### Comment NPS-1

Response: Comment noted.

# Comment NPS -2

*Response*: Comment noted. The requested coordination will occur as part of the development of the Sign Plan.

# Comment NPS -3

*Response*: The Site Description Components table is modified as follows. Public transportation is already included in Table 2.4.3-1 in the "physical access considerations" category:

TABLE 2.4.3-1 SITE DESCRIPTION COMPONENTS

Information Category	Types of Information Provided in Site Description
General site information	Location, ownership and manager
Maps, site pictures, plans and/or drawings (if applicable)	Existing site facilities and features Habitat areas Location of various uses on the site Proximity to other launch and destination sites
Manager's/owner's goals for the site	Site master plans, use plans, general plan policies, and zoning
Use of the site	Boating and non-boating uses
Description of existing or planned facilities, and compliance with pending ADA-ABA Accessible Guidelines	Launch (type[s] of launch[es] or landing[s]) Current and expected user groups and usage Parking (amount available for trail-related use, restrictions, fees, drop-off spots, distance to launch) Restrooms (number, type)

Information Category	Types of Information Provided in Site Description
	Other boating-related facilities (such as staging areas, boat storage, or wash stations)  Overnight accommodations  Signage  Accessibility for persons with mobility impairments
Education, outreach and stewardship	Description of existing and planned programs
Description of existing and planned site management	Maintenance staffing levels  Maintenance provided  Level of management (e.g., pick up trash only, or active enforcement of user behavior)
Physical access considerations	Nearby good boating areas User conflicts Availability of public transportation; Security concerns/vandalism
Wildlife and habitat considerations	Nearby harbor seal haul out or other sensitive wildlife or habitat area Wildlife viewing or interpretive opportunities
Safety considerations	Strong currents nearby Adjacent to a safety exclusion zone Water quality concerns Navigational risks Potential for inter-jurisdictional or interagency law enforcement and emergency response concerns [This change is made as part of Master Comment Response 5]
Other existing and/or anticipated WT-related issues and opportunities	

# Comment NPS -4

*Response*: The WT Plan strategies include providing on-site equipment storage and availability of concessionaires as a means of reducing the need for auto-based travel (see Strategies 11 and 12). Furthermore, the environmentally superior alternative includes Strategy 28, which includes a series of measures designed to encourage alternative forms of transportation to the trailhead.

# Comment NPS -5

*Response*: Comment noted. The Conservancy appreciates the site-specific feedback provided, including the information about the Western Snowy Plover protection area. Site specific information such as the information included in this comment will be incorporated into the Site Description (and Trailhead Plan, as appropriate) for the specific site during the site designation process.

#### Comment NPS -6

*Response*: Comment noted. As described under the response to Comment NPS-5, above, the site-specific information provided will be an important part of the site-specific designation process.

#### Comment NPS -7

*Response*: The education and stewardship program objectives are revised as follows: Objectives of an educational program would include:

- Protecting the safety of WT users and others on the Bay
- Teaching trail users how to boat in a manner that is consistent with protecting wildlife and habitat<del>, and</del>
- Fostering stewardship of the WT and of Bay resources, and
- Cultivating respect and appreciation for historic and cultural resources around the Bay.

# Comment NPS -8

Response: Comment noted.

# Comment NPS -9

*Response*: Comment noted. This type of planning would happen during the trailhead designation process.

# Comment NPS -10

*Response*: Comment noted. As discussed in Section 2.4.3, all sites will be reassessed during the trailhead designation process to determine whether they still meet the criteria for an HOS. If additional facility improvements are needed the site would no longer be considered an HOS.

#### Comment NPS -11

*Response*: Comment noted. The Conservancy appreciates NPS' desire to work cooperatively.

# 2.2.3 RESPONSES TO COMMENTS FROM THE STATE OF CALIFORNIA DEPARTMENT OF FISH AND GAME (DFG)

# Comment DFG-1

Response: This EIR is a programmatic document, and as such does not provide site-specific analysis. As discussed in the DREIR, the trailhead designation process includes a checklist and other steps to ensure that potential impacts associated with each site are identified and addressed as needed. This process is described in Sections 2.4.3 and 2.4.4 of the DREIR. The Conservancy agrees that there may be site-specific measures that are not currently identified in the DREIR; the trailhead designation process, including supplemental CEQA review if warranted by a specific site/proposed site improvements, will identify any other mitigation that may be required at a specific site.

#### Comment DFG -2

*Response*: Comment noted. The mitigation measures addressing wetlands and other sensitive habitats focus first on avoidance. If impacts to wetlands cannot be avoided during construction of WT-related facilities, suitable mitigation would be provided as described in the EIR.

#### Comment DFG -3

*Response*: Comment noted. Streambed alteration agreements are listed as a possible approval required at some sites (see Section 2.5); CEQA would be implemented as necessary for these sites, and DFG would be on the list of agencies notified through the State Clearinghouse.

#### Comment DFG -4

Response: Comment noted. As discussed in the DREIR, the Conservancy and its partners have concluded that Alternative 3, the Enhanced Water Trail Alternative, is the environmentally superior alternative. Under Alternative 2 (HOS Only), while HOS sites would not require any work other than signage to be designated, and would not pose any major environmental management issues, other sites that are currently in use would continue to be used, and new sites would be established, whether or not they are part of the WT. The non-HOS sites under Alternative 2 would not receive the benefits of the Water Trail. It is our conclusion that the environmental benefit of providing the various WT educational and outreach services to all eligible sites, coupled with thoughtful development of site-specific mitigation (where needed) as part of the trailhead designation process, would more than off-set any minimal increase in use associated with publicizing non-HOS sites. Please note that the WT could not require any site to make improvements; however, potentially desirable improvements would be identified through the trailhead designation process, and would be implemented by the site owner/manager subject to the availability of funding and appropriate CEQA review and permits. Please also see Master Comment Responses 2 and 3.

#### Comment DFG -5

*Response*: The following item is added to the bullet list of potential permits and other approvals in Section 2.5:

• DFG incidental take permit or consistency determination

Any sites requiring an incidental take permit or consistency determination would require supplemental CEQA analysis, which would be subject to review and comment by DFG. Programmatic mitigation requirements for sensitive habitat and special status plants are provided in Section 3.7; site specific requirements would be defined during the trailhead designation process.

#### Comment DFG -6

*Response*: Comment noted. Any sensitive status plant surveys conducted during the trailhead designation process will be provided to DFG.

#### Comment DFG -7

Response: Please see Master Comment Responses 2 and 3.

#### Comment DFG -8

Response: Please see Master Comment Responses 2 and 3.

#### Comment DFG -9

Response: Comment noted.

## Comment DFG -10

*Response*: Comment noted. The three measures in this comment will be incorporated into trailhead plans that include construction.

# 2.2.4 RESPONSES TO COMMENTS FROM THE CONTRA COSTA COUNTY DEPARTMENT OF CONSERVATION & DEVELOPMENT (CCCDCD)

#### Comment CCCDCD-1

Response: The title of Impact NAV-1 is modified to read:

IMPACT NAV-1: INCREASED RISK OF INCIDENTS INCLUDING ACCIDENTS INVOLVING LOSS OF LIFE, OR COLLISIONS BETWEEN NMSB USERS, <u>AQUATIC DEBRIS</u>, AND OTHER BOATS

The mitigation measure is modified to read:

MITIGATION MEASURE NAV-M1A: DEVELOP AND IMPLEMENT SAFETY SIGNAGE

As outlined in Strategy 17 and in cooperation with Cal Boating and site owners/managers, the WT program shall ensure inclusion of notices and/or maps of nearby commercial shipping or ferry terminal routes, and known locations of aquatic debris into signs at WT sites.

# 2.2.5 RESPONSES TO COMMENTS FROM THE COUNTY OF MARIN DEPARTMENT OF PARKS AND OPEN SPACE (MDPOS)

# Comment MDPOS-1

*Response*: The site owner/manager information has been corrected as shown.

Table 2.3.2-1 has been revised as follows:

							County of Marin-Heron Court
M30	San Quentin	EL	public	San Rafael	sand beach	waterfront park	Homeowners Association

#### Comment MDPOS-2

*Response*: The following text is added to the last paragraph in the subsection entitled "Changes to Site Conditions or Status" in Section 2.4.3.

Because participation in the WT is strictly voluntary, in addition to the PMT being able to potentially "undesignate" a site, a site owner/manager may also opt out of participation in the WT at any time. The site owner/manager would simply request to have the site "undesignated."

#### Comment MDPOS-3

Response: Please see Master Comment Response 1.

# Comment MDPOS-4

*Response*: If the County requests designation of this location as a WT site, measures to protect sensitive habitat adjacent to this site would be developed with the County as part of the trailhead designation process.

# 2.2.6 RESPONSES TO COMMENTS FROM THE COUNTY OF SANTA CLARA PARKS AND RECREATION DEPARTMENT (SCPRD)

# Comment SCPRD-1

*Response*: The site owner/manager information has been corrected as shown. As explained in Master Comment Response #4, the DREIR analyzed the WT Plan (2007), which specified site names and described sites as they were when the plan was written. The corrections provided in this comment letter will be used during the trailhead designation process to update the Conservancy's information on this site.

Table 2.3.2-1 has been revised as follows:

							County of Santa Clara Parks and	
SC2	Alviso Marina	PL	public	San Jose	planned ramp	waterfront park	Recreation Department	

Also, should the County request designation of this site as a WT site, site-specific information contained in the Alviso Marina County Park Master Plan Final EIR would be incorporated into the trailhead designation process, and the existing EIR could potentially serve to satisfy the CEQA needs for this location.

#### Comment SCPRD -2

*Response*: Comment noted. The WT would not expect a site owner/manager to be responsible for boater safety as it relates to boating in an area that allows hunting. The WT would expect site owners/managers to include a notification that hunting may occur in the vicinity of the trailhead in the WT signage or other media, if the trailhead is within four miles of a hunting area, and agrees that it would be the responsibility of the individual NMSB user to obtain information from DFG and USFWS regarding areas open to hunting and the applicable hunting season(s) along the planned route of travel.

#### Comment SCPRD -3

Response: Comment noted.

#### Comment SCPRD -4

*Response*: The scope of a traffic/parking assessment would be defined in close collaboration with the site owner/manager, and would typically be implemented by the site owner/manager. It would usually include traffic and parking demand not associated with NMSB use as well, to provide an overall assessment of parking needs and traffic at a given location, which would then allow for appropriate planning of any WT-related modifications.

# 2.2.7 RESPONSES TO COMMENTS FROM THE EAST BAY REGIONAL PARK DISTRICT (EBRPD)

# Comment EBPRD-1

*Response*: The text is revised as follows:

#### FACTORS POTENTIALLY AFFECTING GROWTH IN NMSB USE

There are multiple factors that may affect the growth of NMSB use, and these factors may lead to substantial variations in growth rates at different access locations. The primary factors potentially affecting growth in NMSB use are the following:

- Regional population growth
- Growth (or decline) in specific NMSB sports
- The age profile of the population
- Publicity regarding available opportunities for participating in NMSB sports, and
- Types of launch, supporting, and ancillary facilities available at access sites

Other factors that may affect growth in NMSB use include economic factors (i.e., higher costs for travel out of the area could encourage users to recreate closer to home), changes in technology (e.g., changes in watercraft design and technology, making them less expensive and/or more portable), and potential local changes in demographics, such as a trend toward family-oriented activities. While these factors may influence growth in NMSB use, they cannot be quantified, and thus are not evaluated further in this EIR.

Please also see Master Comment Response 3 with regard to the need for mitigation measures to address these potentially unquantifiable factors on growth of NMSB use.

#### Comment EBPRD -2

*Response*: Additional information regarding sites suitable for wind- and kite-surfing is provided by the San Francisco Boardsailing Association (see Comment SFBA-1). The DREIR provides information regarding the requirements for sites used by wind- and kite-surfers. These requirements will be considered in detail during the trailhead designation process.

# Comment EBPRD -3

*Response*: Please see Master Comment Response 1. The information provided here will be considered during the trailhead designation process. DFG does not appear to own or manage this site (J. Krause, pers. comm., 2010). Therefore Table 2.3.2-1 has been revised to change the site owner/manager of site A30 Hayward Landing, as follows:

A30 Hayward's Landing PD public Hayward N/A refuge/reserve EBRPD-Unknown	
--	--

#### Comment EBPRD -4

*Response*: Comment noted. The feasibility of making an individual site accessible to people with mobility limitations or other physical disabilities will be determined during the trailhead designation process with the understanding that there may be circumstances limiting the ability to provide access at some sites for a variety of reasons.

#### Comment EBPRD -5

Response: The referenced text is changed as indicated below.

#### OTHER RECREATIONISTS

Most trailheads would be used by multiple user groups, including motorized boat users. Parks, wildlife areas, and open spaces may be used by anglers, hikers, bicyclists, campers, and hunters. On the water, NMSB users may again encounter motorized boat users, including anglers, hunters, water skiers, personal water craft riders, and other motorized boat users. Other recreationists would be interested in ensuring that their priorities interests are also considered when a public agency expends funds to promote recreational access to the Bay. The roles and responsibilities of other recreationists would remain the same with implementation of the WT.

#### Comment EBPRD -6

Response: Please see Master Comment Response 6 regarding potential CEQA issues associated with the installation of signage and page 2-54 of the DREIR, second paragraph. The comment letter correctly points out that a permit may be required even if the only change being made at a site is the addition of WT signage. However, for most HOS locations, BCDC has already issued permits for the shoreline development and/or fill necessary to create or allow for the boating access. As such, the addition of a sign could then be done administratively through BCDC staff plan review or an amendment to the existing permit if the existing permit language does not cover signage. Staff plan review with the site owner/manager simply requires that the owner/manager submit drawings of the sign and location.

In cases where HOS trailheads do not already have a permit issued by BCDC, the site owner would have to get a permit for the sign(s) from BCDC. This would most likely be a minor permit application and addressed administratively. For non-HOS trailheads that will have site improvements, the signage would be authorized by whatever permit the Commission has to issue for the other improvements and would not constitute a separate permitting effort. Details regarding the BCDC permit process can be found at <a href="http://www.bcdc.ca.gov/permits/processing">http://www.bcdc.ca.gov/permits/processing</a> permits applications.shtml).

#### Comment EBPRD -7

Response: Please see Master Comment Response 7.

# Comment EBPRD -8

*Response*: The referenced significance criterion has been modified to read:

• The location, design or use of proposed WT Backbone Sites would preclude existing <u>legal</u> recreation activities.

# Comment EBPRD -9

Response: Species that are typically dispersed by tidal water (e.g., non-native cordgrass) could be dispersed to a location far from their established invasion area by contaminated equipment. Thus boat washing and gear rinsing facilities are critical to help contain the spread of these types of plants as well. The importance of boat washing facilities will be evaluated at the site-specific level; however, because it is impossible to determine where or how far NMSB users will travel during their outings (multi-day outings could cover a large part of the Bay), the potential for boats to foster the spread of invasive plants cannot be discounted completely for any site.

#### Comment EBPRD -10

*Response*: The following text is added to mitigation measure Bio-M1.

• Trailhead owner/managers shall be informed about and encouraged to join the San Francisco Bay Area "Early Detection Network" for invasive species, through which they can report detections of invasive plants at or in the vicinity of their sites.

#### Comment EBPRD -11

Response: The analysis in the DREIR appropriately relied upon the best scientific data available on the subject of NMSB effects on rafting waterfowl, namely the 2009 Avocet Research Associates study. It is not feasible to conduct further studies of the effects of NMSB use on waterbirds under all the conditions that could possibly occur within the Estuary, or to establish separate buffer distances for each WT site. It is also not practical to expect NMSB users to learn new buffer distances at each site they use. A consistent, conservative buffer distance is the best approach to ensuring protection of rafting waterfowl. Given the myriad variations on conditions and species assemblages that NMSB users will encounter on the Bay, as enumerated in this comment, the best approach for the WT is to consider these circumstances for San Francisco Bay as a whole, and develop appropriate signage and other educational materials or programs as needed to educate NMSB users about the need for wildlife buffers.

# Comment EBPRD -12

*Response*: While it is uncertain whether this impact would be potentially significant, the mitigation measure for potential impact Hyd-1 is in fact implementation of BMPs, as suggested in this comment. Similarly, stormwater BMPs are recommended as a mitigation for potential impact Hyd-2. Thus the existing text already provides the requested approach.

# Comment EBPRD -13

*Response*: The potential of sea level rise to cause flooding is addressed in the referenced section. Addressing potential flood risks is a standard part of the CEQA process. The potential for the project to contribute to sea level rise (i.e., to climate change) as a result of GHG emissions is addressed in Section 3.15 and Appendix G of the EIR. Thus, both effects on and effects from sea level rise are potential impacts under CEQA.

# Comment EBPRD -14

*Response*: Comment noted. This discussion is provided in more detail in Section 3.8, Page 3-122.

# 2.2.8 RESPONSES TO COMMENTS FROM THE HARBOR SAFETY COMMITTEE OF THE SAN FRANCISCO BAY REGION (HSC)

#### Comment HSC-1

*Response*: The following paragraph is inserted after the first paragraph of Section ES.2 of the Executive Summary.

The San Francisco Bay system is the largest estuary on the Pacific Coasts of North and South America. Waters from two major river systems and the Bay flow through the Golden Gate, which is less than one mile wide at its narrowest point. Because of the volume of water moving through the narrow opening on a daily basis, tides and strong currents occur in the Bay. Because of the many microclimates of the San Francisco Bay Area, mariners who navigate through the San Francisco Bay must be aware of how weather conditions can change significantly over short distances and over short periods of time. Mariners must also be aware of the unique weather conditions and weather hazards that are most prevalent during each season (HSC 2010).

# In addition, Chapter 6, Section 6.2, is revised to read:

Harbor Safety Commission Committee of the San Francisco Bay (HSC). 20092010. San Francisco, San Pablo, and Suisun Bay Harbor Safety Plan. Approved March 12June 10, 20092010.

#### Comment HSC -2

Response: The text on Page 3-38 is revised as follows:

Navigating the Bay becomes more difficult during periods of restricted visibility due to winter storms and summer or winter fog. Tule fog can move into the Bay suddenly and reduce the visibility to just a few feet. Strong winds (small craft advisory conditions with winds in the range of 20 to 25 knots) occur nearly every day in the summer throughout the Central and North Bays, and eastward through the Carquinez Strait (HSC 2010). Shorelines and obstacles (including other vessels, shallow waters, and structures) as well as changes in the water surface that could indicate dangerous conditions are more difficult to discern in storms and fog. The risks of accidents or becoming disoriented increase. Changes in the tide can result in NMSBs being swept off course away from shore and/or farther out into open waters, and can make landings difficult for the unaware (i.e., at launch sites or destination sites that are only accessible at certain water depths). Although in general NMSBs are able to maneuver in much shallower water than most other vessels, users could still become stranded by mudflats or low water areas at low tide. Sudden changes in weather can also result in increased fatigue (e.g., as boaters are battling strong winds and/or waves) and medical emergencies such as hypothermia. Wakes from larger vessels, such as ferries or large commercial vessels, can potentially capsize small craft in close proximity (HSC 2010).

The complexity of the Bay is emphasized in the paragraph on page 3-39 that follows the above paragraph:

"The combination of tides, currents, weather (fog and wind), and water depths presents an endless array of conditions challenging the safety and navigation skills of NMSB users. Even a skilled boater who is familiar with Bay conditions can get into trouble and require emergency services from either the Coast Guard or from land-based emergency response providers."

#### Comment HSC -3

*Response*: Comment noted. This incident may be used as an example in educational materials emphasizing the need for NMSB users to be aware of the Rules of the Road.

#### Comment HSC -4

Response: The text is revised to read:

There are currently six major ferry routes on the Bay, with an average of 78 240 daily one-way transits (HSC 2010). Operating ferry terminals are located in San Francisco, Larkspur, Sausalito, Tiburon, Vallejo, Harbor Bay, Oakland, and Alameda (Figure 3.4.2-2).

#### Comment HSC -5

*Response*: The text is revised to read:

LEMPERT-KEENE-SEASTRAND OIL SPILL PREVENTION AND RESPONSE ACT/HARBOR SAFETY COMMITTEE OF THE SAN FRANCISCO BAY REGION

The Harbor Safety Committee of the San Francisco Bay Region was created by the Lempert-Keene-Seastrand Oil Spill Prevention and Response Act. The purpose of the committee is to prepare a Harbor Safety Plan that considers all vessel traffic for the safe navigation and operation of tankers, barges, and other vessels. The original Harbor Safety Plan for San Francisco, San Pablo and Suisun Bays was adopted in 1992. The most recent available San Francisco Bay Region Harbor Safety Plan is for 201009 (HSC 201009).

The Harbor Safety Committee of the San Francisco Bay Region is composed of representatives from the maritime community, port authorities, pilots, tug operators, the USCG, the Office of Spill Prevention and Response (OSPR), the petroleum and shipping industries, and others with expertise in shipping and navigation. The Committee meets regularly to develop additional strategies to further safe navigation and oil spill prevention. The Harbor Safety Committee includes a Prevention through People Workgroup subcommittee that focuses on safety for non-motorized vessels. This workgroup has produced seven brochures and a video targeted to safe boating for recreational boaters.

# Comment HSC -6

Response: The third paragraph under Impact Nav-1 is revised to read: NMSBs are often the smallest boats on the Bay, and most difficult for other mariners to see and avoid. Also, once on the water, a NMSB might enter or cross defined shipping channels and ferry routes presenting a potential navigational safety impact to both the larger vessels and the NMSB user. NMSBs cannot be seen from the bridge of a fast ferry or tanker, or container ship when in transit, and they are not picked up by radar. Ships and tugboats have blind spots ahead of them that can extend hundreds of feet. The larger vessels travel at a much higher rate of speed than NMSBs, and may not be able to make a timely course correction even if the NMSB is seen.

Rating sites with regard to safety concerns was considered during the planning phase, but due to highly variable conditions on San Francisco Bay and the ability of NMSB users to travel in virtually any direction from the trailhead, it is not feasible to provide a general risk rating for individual WT sites.

# Comment HSC -7

*Response*: Comment noted. This information will be considered in the development of the educational program.

# 2.2.9 Responses to Comments from the City of Hercules

Comment City of Hercules-1

Response: Please see Master Comment Response 1.

# 2.3 Responses to Comments from Organizations

# 2.3.1 RESPONSES TO COMMENTS FROM BAY ACCESS, INC. (BAI)

Comment BAI-1

Response: Comment noted.

Comment BAI -2

Response: Please see Master Comment Response 6.

Comment BAI -3

Response: Please see Master Comment Response 8.

# Comment BAI -4

Response: This comment reflects a misunderstanding of the DREIR's estimate of growth attributable solely to implementation of the WT. The DREIR does not quantify the projected increase in growth, but assumes, based on various factors such as the challenges associated with participating in NMSB activities, existing information regarding availability of the sites, existing user groups and tour operators, etc., that the growth solely attributable to the implementation of the WT would be very small compared to the growth projected solely due to growth attributable to population growth and demographic factors.

The number used in the example in the referenced pages is for illustrative purposes only, and is designed to demonstrate that education would in all likelihood more than off-set the potential disturbance impacts associated with implementation of the WT.

#### Comment BAI -5

Response: The comment misrepresents the DREIR on page 3-109 with an erroneous quotation. The text actually reads as follows: "For waterfowl in San Francisco Bay, average waterfowl abundance during these mid-winter surveys has declined from 425,000 during the period 1970-1991 to 182,800 during the period 1992-2007 (excluding 1996)(Takekawa et al. 2000)." The data in Table 3.8.2-1 do suggest that bird populations have been fairly stable in recent years. However, the data also show a substantial decline in bird populations between the 1970-1991 time period and the 1992 – 2007 time period, as analyzed and discussed by Takekawa et al. (2008). We disagree with this comment's general characterization of the analysis of potential impacts to rafting birds as "advocacy" or otherwise flawed. The analysis of impacts was based on the best available data on trends in waterbird numbers in the Estuary and potential impacts of NMSB use on these species.

While the subject of previous declines in Bay Area wintering waterfowl populations is related to the potential effect of disturbance (in that disturbance could result in further declines), the comment is incorrect in suggesting that the analysis on page 3-119 follows directly from the discussion of past declines in abundance. The analysis on page 3-119 focuses on the potential effects of serial disturbance on numbers of waterfowl. The analysis indicated that waterbird numbers have declined in the past (there is no overriding assumption that numbers are currently declining, only that there are a number of factors that could contribute to further declines). The potential effects of serial disturbances on waterbird numbers are analyzed in the context of the

existing populations of waterbirds in the Bay area, which are much lower than they were in 1970 and earlier, and on the effects of such disturbance on waterfowl numbers irrespective of any current or very recent trends in waterfowl numbers.

The author of this comment has placed undue weight in his/her comments on the incorrect assumption that a continuing/ongoing decline in waterfowl numbers is necessary in order for potential impacts by NMSB users to be considered significant. This is not correct. Waterfowl have declined in the past, and numbers are currently low enough relative to historical numbers that any substantial reduction in numbers resulting from NMSB use as a result of this project would constitute a significant impact, regardless of recent/current trends in waterfowl numbers.

The comment also suggests that there will be little overlap between areas of NMSB use and areas important to rafting waterfowl, and that therefore the impact should be considered less than significant. However, if repeated NMSB use occurs in an area where large numbers of waterfowl congregate, the impact could be significant, and this project has taken the stance that such impacts could potentially occur in the absence of adequate public education. If, instead, the assertion in the comment that the potential for NMSB users to impact waterfowl is low is correct, then kayakers would generally not have to observe any buffer and thus would not be affected at all by the finding that disturbance to rafting waterfowl is a potentially significant impact or mitigation measure BIO-M5. The comment also provides several examples of factors that it considers to run counter to the analysis and conclusions of the DREIR. However, whether scaup are hunted, waterbirds congregate in certain areas during bad weather, or intermittent disturbance is more tolerable than constant disturbance, or not, does not change the conclusions of the analysis that is presented in the DREIR. These are three of many factors that could determine the impact of NMSB users on rafting waterfowl, and they were considered in the analysis. See also Master Comment Response 3 regarding the feasibility of mitigation measures, including implementation of a buffer zone.

Finally, the effects of other projects, including restoration projects, have been or will be considered on their own merits, but the effects of those projects do not change the requirement that the Water Trail EIR consider the potential impacts of this project on waterfowl, and these other projects do not represent potential mitigation for the WT.

Comment BAI -6

Response: Comment noted.

Comment BAI -7

Response: Please see Master Comment Response 6.

Comment BAI -8

Response: Please see Master Comment Response 7.

Comment BAI -9

Response: Comment noted.

# Comment BAI -10

*Response*: The positive aspects of the WT program are noted throughout the EIR; the items identified in this list are all included in the discussion of WT benefits in the DREIR.

#### Comment BAI -11

Response: Please see Master Comment Response 8.

# Comment BAI -12

Response: As noted in the DREIR, site conditions may change, and the evaluation of the various sites was conducted approximately five years ago. Furthermore, the initial classification of sites into HOS or non-HOS categories was based on preliminary information that was likely incomplete for some sites. Consequently it is necessary and appropriate to reassess the status of each site. In doing so, the status of sites that were formerly categorized as non-HOS could also change to HOS status.

# Comment BAI -13

Response: Please see Master Comment Response 8.

#### Comment BAI -14

*Response*: The education and outreach program is in a final draft form, and will be finalized after the EIR is finalized. This last step in the development of the education and outreach program will not delay the trailhead designation process.

# Comment BAI -15

Response: Please see Master Comment Response 3.

#### Comment BAI -16

*Response*: All biological impacts described could occur as a result of the incremental growth attributable to the WT. As described in the DREIR, the incremental growth is expected to be small relative to the expected growth driven by demographic factors and population growth. However, due to the sensitivity of the resources in question and/or existing laws and regulations, the threshold of significance for certain impacts is relatively low.

# Comment BAI -17

*Response*: The following text from page 2-3 is repeated in the Executive Summary at the end of Section ES.1:

# The WT would provide multiple benefits. It would:

- Help preserve existing access locations and work with local jurisdictions to advocate for inclusion of NMSB access in waterfront planning.
- Work directly with site owners to keep as many of the existing sites as possible available in the future.
- Provide outreach, and funding as available, to support the preservation of existing sites.
- Encourage site owners to make their sites accessible, and serve as a resource for compliance with the pending Americans with Disabilities Act-Architectural Barriers Act (ADA-ABA) Accessibility Guidelines.

- Perform outreach to actively inform the residents of the Bay Area and interested visitors about the many opportunities for non-motorized small boating in the Bay.
- Help coordinate, expand, and enhance existing educational efforts on boating safety, navigational safety, and avoiding impacts to wildlife and sensitive habitat to provide more comprehensive education to all NMSB users.
- Strive to help minimize conflicts between different user groups at the same waterfront location.

#### Comment BAI -18

*Response*: The WT will not create prohibitions on where people can go, as the WT does not have this authority. However, the WT will consider dangers posed by shipping lanes, ferry transit routes, and security exclusion zones, among other factors, in its trailhead designation decisions and in decisions regarding the design of new facilities at WT sites.

# Comment BAI -19

*Response*: Please see Master Comment Responses 6 and 8.

# 2.3.2 RESPONSES TO COMMENTS FROM FRIENDS OF CORTE MADERA CREEK (FCMC)

#### Comment FCMC-1

*Response*: please see Master Comment Response 4. Note also, that the WT does not have the authority to prohibit a boat dock from being opened or reopened.

# Comment FCMC -2

*Response*: This EIR is a programmatic document, and as such cannot provide the level of detail required to determine whether a specific area could support additional sites. These types of decisions will be made as part of the trailhead designation process, consistent with the Strategies outlined in the WT Plan.

# Comment FCMC -3

Response: This EIR is a programmatic document, and as such cannot provide the level of detail required to determine whether a specific site requires seasonal closure; regardless, the WT cannot require closures. The need for site closures will be determined as part of the trailhead designation process, and it will be up to the site owner/manager to decide whether such a closure is acceptable (if the site owner/manager determines that a seasonal closure is not acceptable, and the WT determines that it would be necessary for designation, the site in question would not be designated as a WT site).

# Comment FCMC -4

*Response*: While it may be desirable to conduct surveys at some potentially very sensitive locations, the incremental growth in NMSB use attributable solely to the implementation of the WT is expected to be small, and pre- and post-project surveys would typically not be required. In addition, it would be nearly impossible to distinguish any increased disturbances due to implementation of the WT from increased disturbances due to population growth or demographic factors.

# Comment FCMC -5

*Response*: The Corte Madera Ecological Reserve haul-out site is shown on Figure 3.9.5-1 and labeled "CM."

#### Comment FCMC -6

Response: As described in Master Comment Response 3, providing docent stewards at a large number of WT sites is not practical or feasible given the number of potential launch sites. CEQA requires that mitigation measures be roughly proportional to the magnitude of the impact. The number of new NMSB users is not expected to increase substantially, so to close off so many areas that are currently available to NMSB users or prohibit any new launches within four miles of known clapper rail presence is not only outside of the authority of the Water Trail program and unnecessary to reduce the impact to clapper rails to less than significant levels, it is also disproportionately stringent compared to the level of impact that could result from this project. As stated in the DREIR and WT Plan, site-specific analysis during the trailhead designation process will highlight any resource issues at any particular site under consideration for designation and appropriate mitigation measures, as needed for designation, will be implemented.

#### Comment FCMC -7

Response: Please see Master Comment Responses 1 and 5.

# Comment FCMC -8

*Response*: The Trailhead plan for each site will provide requirements regarding follow-up. Implementation of strategies will be monitored by the PMT and WT staff, and PMT and Advisory Committee meetings will all be open to the public. The structure of the trailhead designation process, including the structure of the PMT and Advisory Committee is designed to foster implementation of the strategies.

# 2.3.3 RESPONSES TO COMMENTS FROM MARIN AUDUBON SOCIETY (MAS)

#### Comment MAS-1

*Response*: Please see Master Comment Responses 3 and 8. As discussed in response to Comment MAS-2, below, the Conservancy used the best available information as the basis for its impact analysis.

# Comment MAS -2

*Response*: While it is correct that economic conditions have changed, the Conservancy used the best available information to prepare the EIR, including available information regarding project growth in NMSB use. While it is possible that the current economic climate could drive a reduction in population-based growth, it is also possible that the current economic climate would foster interest in locally-based recreation as an alternative to more expensive travel. See also Master Comment Response 8 regarding forecasting in EIRs.

# Comment MAS -3

*Response*: The DREIR provides an appropriate summary of the WT Plan in the project description, and includes additional detail describing how the WT Plan, including the strategies in the Plan would be implemented. The strategies in the WT Plan were developed and agreed

upon by a large group of stakeholders. The DREIR also refines several strategies to ensure adequate mitigation when needed. This EIR is not required to develop or present a detailed implementation plan for each of the strategies. Implementation of the strategies will be the responsibility of the PMT and the site owner/manager and site owner/manager responsibilities will be spelled out in the trailhead plan. The suggestions made in this comment regarding the implementation of the strategies will be considered by the PMT. Please also see Master Comment Response 2 regarding enforcement of mitigation measures, and Master Comment Response 1 regarding funding for law enforcement.

Monitoring of all sites is not required, and would be unlikely to provide the type of information required to assess impacts associated with implementation of the WT. Because there is a large baseline of use, use of most sites accommodates users other than NMSBs, and NMSB users may use a large area for recreation, monitoring would have to be extraordinarily extensive to distinguish the effects of the small number of additional users potentially drawn by the WT from effects caused by all other existing use, new use due to population growth and demographic factors, and new use due to growth in other recreational activities also occurring at or near that trailhead. In some cases, monitoring may be appropriate for some highly sensitive sites.

PMT and Advisory Committee designation meetings will be open to the public and meeting dates and locations will be posted on the WT and Conservancy websites.

#### Comment MAS -4

Response: Please see Master Comment Response 3.

# Comment MAS -5

Response: The text is corrected as follows:

#### San Pablo Bay

San Pablo Bay is richer in sensitive plant species in shoreline, marsh or Bay-edge habitats than the remainder of San Francisco Bay. It also has retained more early historic and prehistoric remnant tidal marshes than any other region of the Bay, including China Camp (San Rafael), Heerdt Marsh (Corte Madera), most of Petaluma Marsh, Whittell Marsh (Point Pinole) and Fagan Slough Ecological Reserve and other old marsh fragments in the Napa Marsh. Intact terrestrial soils and stream deltas also contact estuarine marshes in San Pablo Bay at multiple locations. These "old growth" and tidal marshes and their edges conserve important "hot spots" of high native plant diversity.

# Comment MAS -6

*Response*: This information is site-specific and will be included in the Site Description that will be developed during the trailhead designation process.

# Comment MAS -7

Response: Please see Master Comment Responses 2 and 3.

# Comment MAS -8

Response: Please see Master Comment Responses 2 and 3.

*Response*: If the Trailhead Plan for a proposed WT site includes work that may impact wetlands, a survey would be performed at that time. Pre-designation surveys of all sites are not required. Because the WT EIR assesses both site-specific and regional impacts, the effect of many small fills is considered within the document.

# Comment MAS -10

*Response*: This document is a Programmatic EIR; please see Master Comment Response 8.

#### Comment MAS -11

*Response*: "Sensitive wetland vegetation" refers to wetland vegetation with important ecosystem functions and habitat values that should be protected from damage or destruction because of these values.

# Comment MAS -12

*Response*: Please see master Comment Response 3. The frequency of surveys at trailheads would be determined in the trailhead plan, with a minimum of once per year for sites located in or adjacent to wetland habitat. While existing users may cause trampling impacts, an EIR is not designed to evaluate existing activities; existing activities are part of the project baseline.

#### Comment MAS -13

Response: See response to Comment MAS-9, above.

# Comment MAS -14

*Response*: Table 3.8.2-2 is revised to include black oystercatcher nesting on the Marin Islands. See response to Comment USFWS-32.

# Comment MAS -15

Response: Please see Master Comment Response 3.

#### Comment MAS -16

*Response*: Cumulative impacts are discussed in Section 4; regional and site-specific impacts associated with the WT are addressed in the referenced section.

#### Comment MAS -17

*Response*: Overlap would be reduced through buffer zones and educational media, as discussed throughout the DREIR. Please also see Master Comment Response 3.

#### Comment MAS -18

Response: Please see Master Comment Response 3.

*Response*: The information on disturbance is based on the referenced Takekawa study and Avocet Research Associates North Basin study. Please note that the buffer recommended for rafting waterfowl is 250 meters, not 250 feet.

# Comment MAS -20

*Response*: Impact Bio-6 acknowledges that high tide roosts may be susceptible to disturbance [by NMSBs] during periods of high water. Mitigation Measure Bio-M6 is revised as follows:

MITIGATION MEASURE BIO-M6: AVOID DISTURBANCE OF CALIFORNIA BROWN PELICANS FROM ROOSTING AND FORAGING HABITAT, AND DISTURBANCE OF WATER BIRDS FROM HIGH TIDE REFUGIA

As part of the trailhead designation process, WT sponsors shall identify high-use California brown pelican roosting areas, and implement signage and site-specific education at WT sites located near these roosting areas. Educational materials at launch sites shall alert WT users to the sensitivity of roosting California brown pelicans and the appropriate buffer zones. In addition, the trailhead designation process initial checklist (see Appendix E) will include California brown pelican roosting sites as a potential sensitive resource requiring further evaluation if present.

Education has been shown to be somewhat effective at reducing the potential for disturbance to sensitive species. At a Southern California beach, erecting signage increased the percentage of the public that could identify snowy plovers from 3% to 15%; once docents were employed recognition increased to over 80% (Lafferty, Goodman and Sandoval 2006; Lafferty 2001). After implementation of the educational signage and a docent program, disturbance was reduced by more than 50% and successful breeding was reestablished. The docent program included reminding people about leash laws and not trespassing into the roped-off plover breeding area, and scaring crows from nests. The study did not evaluate the effectiveness of the individual components of the docent program, and did not separately evaluate the signage and docent components; therefore it is not possible to determine the individual contribution of each of these components.

In addition, the education and signage program shall educate WT users about the importance of high tide refugia for water birds and other species, and shall emphasize the need for boaters to avoid disturbance to high tide refugia during high tides.

# Comment MAS -21

Response: Please see Master Comment Response 3.

Siting and design measures would be site-specific and are therefore not included in this programmatic EIR. Specific measures and recommendations to avoid disturbing roosting birds will be included as part of the signage and educational materials.

# Comment MAS -22

*Response*: Language for site-specific signage will be developed during the trailhead designation process. This document is a programmatic EIR, and the level of site-specific information requested is not appropriate for this document.

Response: Please also see Master Comment Response 3.

As noted in the response to comment FCMC-6, CEQA requires that mitigation measures be roughly proportional to the magnitude of the impact. The number of new NMSB users is not expected to increase substantially, so to close off areas that are currently available to NMSB users is not only unnecessary to reduce the impact to clapper rails to less than significant levels, it is also disproportionately stringent compared to the level of impact that could result from this project and not under the authority of the Water Trail. The clapper rail does use tidal sloughs and channels, including many that are much too narrow and shallow to be used by NMSB users. We do not expect NMSB users to make substantially greater use of channels used for nesting and foraging by clapper rails as a result of this project. If NMSB users remain in their kayaks rather than entering marshes on foot, they would not be expected to "come upon" a nest, which would be located within the vegetated marsh, and signage and other educational materials will instruct NMSB users to avoid landing in or entering marsh habitat on foot. The 700-foot buffer from South Bay Salt Pond activities is for land-based construction-related activity, not for water-based activity. NMSB users would be expected to be present in any given area (such as adjacent to an occupied clapper rail territory) for a brief duration. Guidelines for wildlife viewing etiquette, especially by those who wish to "linger" and/or photograph wildlife, will be part of the education program.

Finally, to clarify: while the black rail does indeed depend on tidal marshes of San Francisco Bay, it also breeds in the eastern Sacramento Valley.

# Comment MAS -24

Response: The song sparrow uses tidal marsh both along channels that are accessible to NMSB users and along numerous channels that are much too narrow and shallow to be used by NMSB users. As long as NMSB users do not disembark into vegetated marsh, then they will not impact nesting habitat directly or spend much time in the territory of any given pair of song sparrows. The transient presence of NMSB users in larger channels adjacent to occupied sparrow habitat is not expected to disturb birds to the point of abandonment of territories or nests, and thus the impact is less than significant and no buffer is needed. Further, Conservancy staff searched throughout the Draft Recovery Plan for Tidal Marsh Ecosystems of Northern and Central California (USFWS 2010) and did not find 100-300-foot buffer recommendations for the three mentioned species, but did find a recommended 300-500-foot buffer between development projects and wetland areas for saltmarsh common yellowthroats (Volume I, page 316).

# Comment MAS -25

*Response*: The location identified as CM (Corte Madera) is the haul site in Corte Madera Ecological Reserve, and the location is correct.

#### Comment MAS -26

*Response*: Information regarding the risk of being stranded in the marsh at low tides will be added to signage or other educational materials at all appropriate locations.

Response: Please see Master Comment Response 3.

# Comment MAS -28

*Response*: The referenced mitigation measure (Bio-M12) is actually designed to address potential impacts to salt marsh harvest mouse (Impact Bio-12), not harbor seals, as stated in the comment. The mitigation measure itself, however, is formulated more broadly to be applicable to marsh habitat in general.

# Comment MAS -29

*Response*: The proposed buffer is appropriate, and is based on studies conducted by scientists during the CalTrans Bay Bridge retrofit project. It is not necessary to avoid designation of sites within 4 miles of a seal haul-out area. In fact, not designating such sites would eliminate the opportunity to educate users at the site about the importance and sensitivity of seal haul-out areas, and could result in greater impacts to seals.

#### Comment MAS -30

*Response*: The Conservancy appreciates the information provided. The actual distance from a potential trailhead to recognized seal haul out areas will be verified during the trailhead designation process.

# Comment MAS -31

*Response*: Potential impacts in areas away from trailheads are addressed by numerous mitigation measures, including proposed buffer areas, boat washing, various components of the education program, signage, etc.

#### Comment MAS -32

*Response*: Comment noted. All new facilities will be designed to avoid adverse impacts, and/or appropriate mitigation would be provided. These determinations would be made the site-specific level during trailhead designation.

# Comment MAS -33

*Response*: Guarding against the loss of high tide refugia needed by the Clapper Rail and other sensitive marsh species is addressed in response to USFWS Comment 53. As indicated in response to Comment MAS-20, more emphasis will be placed on educating NMSB users about the importance of high tide refugia.

# 2.3.4 RESPONSES TO COMMENTS FROM SAN FRANCISCO BOARD SAILING ASSOCIATION (SFBA)

# Comment SFBA-1

Response: The concern expressed in this comment is apparently based on a misunderstanding of the WT program; both HOS and non-HOS sites have the potential to be designated. The WT Plan identified HOS and non-HOS sites, and both types of sites may be included in the WT. Furthermore, HOS or non-HOS status is not a static designation. As discussed in the document (Section 2.4.3), all sites will be reviewed to determine whether they still meet the criteria for an HOS (if currently included on the list of HOSs) or whether they now

meet the criteria for a HOS (if previously categorized as non-HOS). The initial division of sites into the two categories was based on preliminary information available at the time of the WT Plan development, and several years have elapsed since the sites were initially categorized.

The Conservancy would appreciate any information regarding sites used by board sailors, including sites that were pioneered by SFBA members.

# Comment SFBA-2

Response: Please see Master Comment Response 6.

#### Comment SFBA-3

*Response*: Comment noted. The intent of the WT is to develop a network of access sites around the Bay. The process for adding new sites to the WT is described in the DREIR (and Water Trail Plan), and summarized in Master Comment Response 4. The PMT is always interested in hearing from the public regarding recommendations for new sites, but the future site owner would have to express a desire to host/maintain a site and be part of the WT.

# Comment SFBA-4

*Response*: It is hoped that the majority of board sailors would recognize the impacts of their activities if these activities involve the destruction of marsh or other sensitive habitat. It has been reported by others that some board sailors using this site have deliberately removed signs and ignored DFG's attempts to divert use from this sensitive site to another location. Irresponsible and inappropriate behavior by board sailors is not an indictment of the speed with which the WT is being developed.

# 2.3.5 RESPONSES TO COMMENTS FROM SAVE THE BAY (STB)

#### Comment STB-1

Response: Comment noted.

# 2.3.6 RESPONSES TO COMMENTS FROM SHORELINE WATCH FOR SAN JOSE (SWSJ)

#### Comment SWSJ-1

Response: Please see Master Comment Response 3.

#### Comment SWSJ -2

Response: Please see Master Comment Response 4.

# Comment SWSJ -3

Response: This comment reflects a misunderstanding of the intent of the HOS designation and the WT EIR. This EIR is a programmatic EIR that is designed to provide analysis of issues that are ripe for analysis at this time; it is not designed to provide a site-by-site (i.e., project-by-project) CEQA assessment. As described in Section 2.4.3, all sites will be reviewed to determine whether they currently meet HOS criteria, but meeting the criteria for an HOS merely accelerates the trailhead designation process. It has no bearing on funding.

# Comment SWSJ -4

Response: Please see response to above Comment SWSJ-3.

#### Comment SWSJ -5

Response: The Conservancy appreciates the detailed description and assessment of public safety and law enforcement issues encountered relative to the Alviso Marina County Park launch site and issues identified for motorized boat users from the site location. Coordination among and funding for law enforcement activities is addressed by Master Comment Responses 1, 2 and 5. It should be noted that such issues would be expected to surface during the trailhead designation process for new sites, which would provide an opportunity for early coordination and resolution of public safety and jurisdictional issues. As discussed in Master Comment Response 5, the Site Description summary is expanded to include the following item under the category of "safety": potential for interjurisdictional or interagency law enforcement and emergency response concerns.

Furthermore, Strategy 26 was revised as shown below.

# 26. Navigational Safety Develop and implement comprehensive safety education guidelines, including minimum content standards for safety education, provide safetyoriented signage, and encourage improved dissemination of information on safetyrelated incidents, and foster cooperation among agencies providing public safety services.

Education is a key component of the WT Plan. This strategy emphasizes the importance of providing consistent, effective navigational safety information. Safety education for non-motorized small boat users is currently provided on an *ad hoc* basis by various organizations. The proposed guidelines and the minimum content would ensure that safety training provided by various organizations would meet a minimum standard. The WT would serve as a centralized forum for safety-related information so updated safety information can be provided more easily to the potentially large number of individuals who provide safety education. The goal of the safety education program would be to develop a "safety ethic" among WT users and encourage boaters to report safety-related incidents. Safety-related signage may be used to remind boaters both about basic safety principles (e.g., use of PFDs), and to identify potential safety risks in the vicinity of an access site. Improved reporting and on-going sharing of information about incidents is an effective means of identifying safety concerns (such as facility design issues and vessel use conflicts) and helping boaters understand the potential implications of their actions.

In addition, the site owner/manager and appropriate agencies providing public safety services in the vicinity of the trailhead should be consulted to identify the potential for interjurisdictional or interagency law enforcement and emergency response concerns.

(Please also note the revision to Strategy 26 contained in Master Comment Response 5. That revision is in addition to the text presented here.)

The WT also provides a potential forum for agencies charged with protection of public safety to identify interjurisdictional concerns. The WT may also request that the Harbor Safety Committee's Prevention Through People Workgroup specifically address the needs to NMSB users relative to on-water safety and rescue.

Responsibility for abandoned boats is not within the purview of the WT. Training for law enforcement agencies to enhance knowledge of wildlife regulations is addressed by Strategy 22.

# Comment SWSJ -6

Response: Of the 14 organizations to be represented on the Advisory Committee, three are dedicated to wildlife and environmental protection (USFWS, DFG, and a non-governmental wildlife and environmental protection agency representative). Four others (Save the Bay, EBRPD, State Parks, and NPS) have environmental protection as a major objective of their mission. Only two represent business interests. The Advisory Committee composition is balanced and fair.

# Comment SWSJ -7

*Response*: The Site Description checklist contains an item entitled "use of the site," which requires identifying boating and non-boating uses of the site. This item is modified to specifically add user groups (please also see complete revised checklist in Master Comment Response 5).

Use of the site	Boating and non-boating uses
	<u>User groups</u>

# Comment SWSJ -8

Response: Please see Master Comment Response 3.

# Comment SWSJ -9

Response: Please see response to Master Comment Response 4.

#### Comment SWSJ -10

*Response*: Because USFWS did not comment on the regulatory language provided here, no change was made. The following sentence is added to the end of the second paragraph discussing the San Francisco Bay NWR Complex:

Marin Islands NWR is closed to the public and does not and would not be expected to host a WT site.

# Comment SWSJ -11

Response: Please see Master Comment Responses 1 and 2.

#### Comment SWSJ -12

Response: Please see Master Comment Response 5.

#### Comment SWSJ -13

*Response*: See response to USFWS Comment 22.

# Comment SWSJ -14

Response: See response to USFWS Comment 49.

#### Comment SWSJ -15

Response: Comment noted.

# Comment SWSJ -16

Response: Comment noted.

# 2.4 Responses to Comments from Individuals

# 2.4.1 RESPONSE TO WRITTEN COMMENTS FROM NORTON BELL

# Comment Bell-1

*Response*: Comment noted. Boating on San Francisco Bay can indeed pose a variety of navigational/safety risks to NMSB users. This issue is addressed in Section 3.4, and by Strategy 26 (Navigation Safety) in the Enhanced Water Trail Alternative. Please also see Master Comment Response 5.

#### Comment Bell -2

Response: Please see Master Comment Response 5.

#### Comment Bell -3

Response: Comment noted.

#### Comment Bell -4

Response: Please see Master Comment Response 1.

#### Comment Bell -5

Response: Please see Master Comment Response 2.

#### Comment Bell -6

Response: Please see Master Comment Response 2.

#### Comment Bell -7

Response: Comment noted.

# 2.4.2 RESPONSE TO WRITTEN COMMENTS FROM TED CHOI, CITY KAYAK

# Comment Choi-1

Response: Comment noted.

# Comment Choi -2

# *Response*: The text is revised as follows:

Waterfront and Water-oriented	• Private marina owners/operators	<ul> <li>Provide the perspective and represent the interests of businesses directly or indirectly associated with</li> </ul>
Businesses	• Tour operators	NMSB use
	Restaurant owners	Provide access for the public through Water Trail
	Boat sellers	<u>sites</u>
	<ul> <li>Boating instruction, storage, and rental providers</li> </ul>	• <u>Provide education, outreach and stewardship</u> programs (for safety, to promote NMSB activities, to
	<ul> <li>Other concessionaires</li> </ul>	protect wildlife, etc.)

# Comment Choi -3

Response: See response to Comment HSC -2.

# Comment Choi -4

*Response*: The following text is added at the end of Section 3.4.2:

Certain marine events, like fireworks and Fleet Week, call for temporary restricted zones by the USCG. Boaters need to monitor channel 16 on VHF radio for updates related to temporary restricted zones.

# 2.4.3 RESPONSE TO WRITTEN COMMENTS FROM ARTHUR FEINSTEIN, CONSULTING FOR CONSERVATION

# Comment Feinstein-1

Response: Comment noted.

#### Comment Feinstein -2

*Response*: The basis for the growth forecast is detailed in the document and is based on the best available information. Many of the sites are already publicized. Please also see Master Comment Response 8.

# Comment Feinstein -3

Response: Please see Master Comment Response 3.

# Comment Feinstein -4

Response: Please see Master Comment Response 3.

#### Comment Feinstein -5

*Response*: Please see Master Comment Responses 2 and 3.

#### Comment Feinstein -6

Response: This EIR is a programmatic document, and the level of detail suggested in this comment is appropriate for a project-level analysis. The inclusion of seasonal site closures as a potential mitigation measure to avoid impacts to harbor seals or basking Northwestern pond turtles (Mitigation Measure Bio-M16) in this programmatic EIR is based on concerns for these species in a limited number of clearly-definable locations in San Francisco Bay. Additional recommendations for seasonal site closures could be developed during the trailhead designation process for other species, if warranted by site-specific analysis. It will be up to the site owner/manager to decide whether such a closure is acceptable (if the site owner/manager determines that a seasonal closure is not acceptable, and the WT determines that it would be necessary for designation, the site in question would not be designated as a WT site). The WT cannot require seasonal closures. Please also see Master Comment Response 3.

# Comment Feinstein -7

Response: Please see response to Comment Feinstein-6.

# Comment Feinstein -8

Response: Please see Master Comment Response 1.

Comment Feinstein -9

Response: Please see Master Comment Responses 2 and 3.

Comment Feinstein -10

Response: Please see Master Comment Response 2.

Comment Feinstein -11

Response: Please see Master Comment Response 1.

Comment Feinstein -12

Response: Please see Master Comment Responses 1 and 3.

#### 2.4.4 RESPONSE TO WRITTEN COMMENTS FROM BETH HUNING

Comment Huning-1

Response: Comment noted.

Comment Huning -2

Response: Please see Master Comment Response 2.

Comment Huning -3

Response: Comment noted.

Comment Huning -4

Response: Please see Master Comment Response 3.

Comment Huning -5

Response: Please see Master Comment Response 3.

# Comment Huning -6

*Response*: The information contained in the Draft Tidal Marsh Recovery Plan and other applicable species and habitat protection plans (e.g., Snowy Plover Recovery Plan) will be considered in the trailhead designation process. However, as discussed in the DREIR, the WT does not have the power to limit use of existing or planned sites, or to prevent location of new sites in sensitive areas. Please also see Master Comment Response 3.

# Comment Huning -7

Response: The analysis is consistent, and is consistently based on the projected increase in NMSB use due solely to the implementation of the WT. As explained in detail in Section 2.2.2 this growth is expected to be quite small relative to the overall growth in NSMB use due to population growth and demographic factors. The quoted statement from Methodology, page 3-116, actually reads "...development of the WT is not expected to substantially increase overall use of NMSBs on the Bay, and population growth is likely to be a much stronger driver of increased NMSB use." The fact that increased use of NMSB use on the Bay due to implementation of the WT is very small in comparison to the baseline of use or the projected increased in NMSB use absent the WT does not relieve the project from the requirement to

analyze the potential impacts of the potential WT-induced increase. It is appropriate and not contradictory to conduct this analysis *within the context of* baseline and non-WT-induced growth.

# Comment Huning -8

*Response*: The WT is not required to address impacts associated with baseline growth in NMSB use (i.e., growth attributable to population trends and demographic factors), as is implied by this comment. Please also see Master Comment Response 3.

# Comment Huning -9

Response: Please see Master Comment Response 3.

# Comment Huning -10

Response: Please see Master Comment Responses 1 and 3.

# Comment Huning -11

*Response*: Table 2.4.3-1 (Site Description Components) site description checklist is modified as follows:

Wildlife and habitat considerations	Nearby harbor seal haul out or other sensitive wildlife or habitat area
	Wildlife viewing or interpretive opportunities
	Restoration projects at or in the vicinity of the site
	Potential for habitat restoration at the site

Please see Master Comment Response 5 for the entire revised table.

# 2.4.5 RESPONSE TO WRITTEN COMMENTS FROM PAUL KAMEN

# Comment Kamen-1w

*Response*: The DREIR used the best available information regarding the potential changes in NMSB use. There are no published or other reliable data available regarding the number of users who permanently switch from motorized to non-motorized boating. Also, an EIR is not required to generate new data to support its analysis.

# Comment Kamen -2w

*Response*: The benefits of on-site boat storage were addressed in the greenhouse gas analysis, and Strategy 28 includes measures to help reduce vehicle trips associated with NMSB use.

#### Comment Kamen -3w

*Response*: The greenhouse gas analysis considered the benefits of replacing out of the area vehicle trips with local vehicle trips. It is not possible, given the available information, to quantify any differences in typical vehicle size used for local versus long-distance trips.

#### Comment Kamen -4w

*Response*: The promotion of the WT ethic addresses this benefit of NMSB use. Nonetheless, even relatively benign activities such as birding and wildlife photography can result in disturbance to wildlife (see Comment USFWS-42).

#### Comment Kamen -5w

*Response*: The text currently reads "Launch sites adjacent to training areas are preferred, and a dock tie space is needed for storage." The text in Chapter 3 indicates that dragon boats prefer inside-tie dock space (see Page 3-64). The text does not imply that a ramp or hoist is required, and in fact indicates that a beach is the preferred launch facility.

#### Comment Kamen -6w

*Response*: The additional organizations listed in this comment are added to Table 3.3.2-1.

TABLE 3.3.2-1. NON-MOTORIZED BOATING GROUPS AND ORGANIZATIONS

Organization	Location	Description	
Bay Access Inc. (http://www.bayaccess.org/)	Area-wide (web-based)	A nonprofit organization of kayakers dedicated to improving non-powered boat access and water trails	
Bair Island Aquatic Center (http://www.gobair.org/)	Redwood City	A nonprofit organization focused on human-powered water sports such as rowing, sculling, paddling, and dragon boating	
Bay Area Sea Kayakers (http://www.bask.org/)	San Francisco	Club dedicated to the safe enjoyment of the sport of sea kayaking	
Benicia Outriggers	Benicia	Outrigger canoe club	
Berkeley Paddling and Rowing Club (http://www.berkeleyrowingclub.org/)	Berkeley	Local chapter of U.S. Canoe/Kayak organization	
Berkeley Racing Canoe Center (www.BerkeleyRCC.org)	Berkeley	Promotes international dragon boat competition and provides water access and educational opportunities to the Berkeley and East Bay communities. Hosts <u>DragonMax dragon boat team.</u>	
California Dragon Boat Association (http://www.cdba.org/)	San Francisco	Nonprofit organization to foster the growth and development of dragon boating in the San Francisco Bay Area	
Bay Area Whaleboat Rowing Association (http://www.bawra.org)	San Francisco	Represents over 12 Rowing Clubs in the Bay Area	
Cal Sailing Club (www.cal-sailing.org	Berkeley	Established in the 1930s, currently an organization focused on sailboards and small beachable sailboats	
Dolphin Club (http://www.dolphinclub.org/)	San Francisco	Nonprofit, public-access athletic organization	
DragonMax Dragon Boat Club of Berkeley (http://www.dragonmax.org/)	Berkeley	Outrigger canoe club	
Embarcadero Rowing Club (http://www.rowrenegade.org/)	San Francisco	A non-profit organization for whaleboat rowing	
Friends of the Napa River (http://www.friendsofthenapariver.org/)	Napa	Nonprofit organization dedicated to the protection and restoration of the Napa River; sponsors canoe and kayak trips	

TABLE 3.3.2-1. NON-MOTORIZED BOATING GROUPS AND ORGANIZATIONS

Organization	Location	Description	
Friends of the Petaluma River (http://www.friendsofthepetalumariver.org/ )	Petaluma	Nonprofit organization dedicated to celebrating and conserving the Petaluma River, its wetlands and wildlife	
He'E Nalu o'Marin Outrigger Canoe Club (http://www.heenaluocc.org/)	Larkspur	Outrigger canoe club	
Ho'okahi Pu'uwa Outrigger Canoe Club (http://www.hpocc.com/)	Foster City	Outrigger canoe club	
Hui Wa'a O San Jose Outrigger Canoe Club (http://www.kanuclub.org/)	Redwood City	Outrigger canoe club	
Jack London Aquatic Center (http://www.jlac.org/)	Oakland	Organization that provides dragon boats, kayak, and rowing programs	
Kaimanu Hawaiian Outrigger Canoe Club (http://www.kaimanu.com/)	San Leandro	Outrigger canoe club	
Kamali'i 'O Ke Kai Outrigger Canoe Club (http://www.kamaliiokekai.org/)	San Jose	Outrigger canoe club	
Kilohana Outrigger Canoe Club (http://www.kilohanaocc.org/)	Fremont	Outrigger canoe club	
Lokahi Outrigger Canoe Club (http://www.lokahiocc.org/)	Petaluma	Outrigger canoe club	
Marin Canoe and Kayak Club (http://www.marincanoeclub.org/)	San Rafael	Encourages and supports boating	
Marin Rowing Association (http://www.marinrowing.org/)	Greenbrae	A non-profit organization	
North Bay Rowing Club (http://www.northbayrowing.org/)	Petaluma	Rowing club	
Oakland Strokes (http://www.oaklandstrokes.org)	Oakland	Rowing club for high school ages	
O Kalani Outrigger Canoe Club	Alameda	Outrigger canoe club	
Ohana Wa'a Outrigger Canoe Club	Petaluma	Outrigger canoe club	
Open Water Rowing Center (http://www.owrc.com/)	Sausalito	A Limited Liability Corporation (LLC) for open water sculls whose partners are rowers and members of the OWRC	
Pacific Rowing Club (http://www.pacificrowingclub.org/)	San Francisco	Sculling club	
Petaluma Paddlers	Petaluma	Local canoe and sea kayak paddling group	
Petaluma Small Craft Center Coalition (http://starbirdcreative.com/PSC3/)	Petaluma	Encourages and supports human-powered watercraft on the Petaluma River	
Pu Pu O Hawai'i Outrigger Canoe Club (http://www.pupuohawaii.org/)	Los Gatos	Outrigger canoe club	
San Francisco Bay Area Kiteboarding	Area-wide	Website with information about kitesurfing	

TABLE 3.3.2-1. NON-MOTORIZED BOATING GROUPS AND ORGANIZATIONS

Organization	Location	Description	
(http://www.bayareakiteboarding.com)	(web-based)		
San Francisco Boardsailing Association (http://www.sfba.org/)	San Francisco	A non-profit organization that addresses concerns of boardsailing	
San Francisco Outrigger Canoe Center (http://www.sfocc.org/)	South San Francisco	Outrigger canoe organization	
Save the Bay (http://www.savesfbay.org)	Oakland	Nonprofit organization working exclusively to protect, restore and celebrate San Francisco Bay; sponsors canoe and kayak outings on the Bay often associated with restoration programs	
South End Rowing Club (http://www.south-end.org/)	South San Francisco	Local rowing club	
Stanford Kayak Club (http://www.stanford.edu/group/KayakClu b/)	Palo Alto	Local kayak club	
Stanford Canoe and Kayak (http://www.stanford.edu/group/sck/)	Redwood Shores	Local chapter of U.S. Canoe/Kayak organization	
Tamalpais Outrigger Canoe Club (http://www.geocities.com/paddletam/)	Sausalito	A nonprofit organization which provides instruction is basic and advanced techniques in the sport of outrigge canoeing	
Wavechaser Paddle Series	Area-wide (web-based)	Winter racing organization for outrigger canoes and kayaks	
Western Sea Kayakers (http://www.westernseakayakers.org/)	San Jose	Sea kayak club	
Women on Water (http://www.uswindsurfing.org/WOW/WO Whome.htm)	San Francisco	Promotes women's windsurfing and kitesurfing	

#### Comment Kamen -7w

*Response*: Some incentives are contemplated (e.g., preferred or extended parking for NMSB users who carpool). Please see Strategies 11 and 28, and also Master Comment Response 1.

Comment Kamen -8w

Response: Please see Master Comment Response 6.

#### 2.4.6 RESPONSE TO VERBAL COMMENTS FROM PAUL KAMEN

Comment Kamen-1v

Response: Please see Master Comment Response 6.

#### Comment Kamen -2v

*Response*: The Conservancy agrees that not all sites will require site-specific mitigation measures; however, the WT will require educational and signage components at all WT sites. The need for mitigation measures at a specific location will be determined during the trailhead designation process.

#### Comment Kamen -3v

*Response*: The benefits of implementing the WT are presented throughout the document; however, an EIR is designed to evaluate potential impacts (which are defined as adverse effects on the environment), and is not intended to quantify or describe a trade-off between environmental benefits and impacts. Such trade-offs, where applicable, are a policy decision that is made by the decision-making body (in this case, the Conservancy Board) in its findings on the FEIR.

Comment Kamen -4v

Response: See response to Comment Kamen-3v above.

#### 2.4.7 RESPONSE TO VERBAL COMMENTS FROM JIM MCGRATH

Comment McGrath-1v

Response: Please see Master Comment Response 6.

Comment McGrath -2v

Response: Please see Master Comment Response 8.

#### Comment McGrath -3v

*Response*: The estimated growth in NMSB is based on the best available information (information from Cal Boating using a scientific survey methodology). The DREIR states that the percentage of growth attributable solely to the implementation of the WT is likely to be small; nonetheless, potential impacts to sensitive resources cannot be ruled out because while the percentage of growth may be small, the overall number of participant-days is relatively high, and for resources that are already impaired, the threshold of significance is low.

Comment McGrath -4v

Response: Please see Master Comment Response 3.

Comment McGrath -5v

Response: Please see Master Comment Response 8.

Comment McGrath -6v

Response: Please see Master Comment Response 8.

Comment McGrath -7v

*Response*: Comment noted. The DREIR states that Alternative 3 is the environmentally superior alternative. However, education would be provided to all sites under Alternative 1 (the Proposed Project analyzed in this EIR) as well.

Comment McGrath -8v

Response: Please see Master Comment Response 8.

#### Comment McGrath -9v

*Response*: The education program has been developed by the Conservancy; however, implementation will involve many organizations. Stewardship programs are necessarily site-specific, and the need for stewardship programs will be identified during the trailhead designation process.

Comment McGrath -10v

Response: Please see response to Comment McGrath-3v.

#### 2.4.8 RESPONSE TO WRITTEN COMMENTS FROM PAUL NIXON

Comment Nixon-1w

Response: Please see Master Comment Response 6.

Comment Nixon -2w

Response: Please see Master Comment Responses 1 and 6.

Comment Nixon -3w

Response: The development of a Trailhead Plan during the trailhead designation process does not require studies; it simply requires summarizing available information regarding a site so that potential concerns and issues can be identified. Even if a site has been in existence for 100 years, it is conceivable that some simple improvements could be made to increase the safety, enhance the appeal, and/or reduce the environmental effects associated with that site. Also, the classification of sites into HOS and non-HOS categories in the WT Plan was based on preliminary information, and that classification was conducted approximately five years ago. Consequently, conditions at sites may have changed, and site classifications may change (from HOS to non-HOS or vice-versa) upon closer review of current information. Please also see Master Comment Response 4.

Comment Nixon -4w

Response: Please see Master Comment Response 6.

#### 2.4.9 RESPONSE TO VERBAL COMMENTS FROM PAUL NIXON

Comment Nixon-1v

Response: Please see Master Comment Response 6.

Comment Nixon -2v

*Response*: While bathrooms are a desirable feature at WT sites, the WT considers many factors in trailhead designation decisions and funding decisions.

Comment Nixon -3v

Response: Please see Master Comment Response 6.

#### 2.4.10 RESPONSE TO WRITTEN COMMENTS FROM GAIL RAABE

Comment Raabe-1

Response: Please see Master Comment Response 4.

#### Comment Raabe-2

*Response*: Comment noted. This type of information (i.e., the presence of a large group of potential users immediately adjacent to a planned site) would be considered during the trailhead designation process to evaluate the need for additional site-specific mitigation.

#### Comment Raabe-3

Response: Please see Master Comment Responses 1 and 3.

#### 2.4.11 RESPONSE TO WRITTEN COMMENTS FROM RICHARD SANTOS

Comment Santos-1

Response: Please see Master Comment Response 4.

#### 2.4.12 RESPONSE TO VERBAL COMMENTS FROM RICHARD SKAFF

#### Comment Skaff-1

Response: The Conservancy agrees that a process to ensure consideration of the needs of persons with mobility disabilities or other types of physical disabilities be an integral part of the implementation of the WT Plan, and it is. The WT Plan itself includes strategies to this end, and the trailhead designation process will provide the opportunity for input from all interested stakeholders. Additionally, the Advisory Committee to the Project Management Team will include an accessibility expert.

#### Comment Skaff-2

*Response*: The development of the WT Plan was led by BCDC at public meetings and included a special focus on accessible design issues. The WT Plan focused on accessibility and launch design issues as follows:

Page 3, Executive Summary under Principles for Implementation (Point 5)

Page 16, Section 4.1, Overview of Water Trail Issues and Needs, paragraph on Access

Page 17, Section 4.2, Principles, Number 5

Page 18, Section 5.1, Launches

Page 19, Table 5.1 (Boaters with Disabilities)

Page 31, Table 6.1, Strategy 5 (Design Guidelines)

Page 33, Table 6.1, Strategy 10 (Accessibility)

Page 41, Description of Advisory Committee

Page 42, Meetings and Noticing

Page 63, Section 9.1, Education, Outreach, and Stewardship

Page 63, Section 9.1, Signage

Page 65, Development of Launch Design Guidelines

Page 71, Section 10.3, Expertise on Accessible Facility and Program Design Designation decisions for specific WT sites will likewise be made at public meetings, as described in the response to Skaff-1, above.

#### Comment Skaff-3

*Response*: In Section 3.2.2 of the DREIR, "State and Regional Laws, Regulations and Related Plans," under the heading "California Disability Statutes" (DREIR, page 3-16) all California laws related to this topic are identified, including the one regulation that specifically

addresses "small boat access," found at California Code of Regulations, Title 24, Section 1132B.2.4.

Comment Skaff-4

Response: Comment noted.

#### 2.4.13 RESPONSE TO VERBAL COMMENTS FROM CASEY WALKER

Comment Walker-1

Response: Comment noted.





## United States Department of the Interior

#### FISH AND WILDLIFE SERVICE

San Francisco Bay National Wildlife Refuge Complex 9500 Thornton Avenue Newark, California 94560-0524



September 10, 2010

Ann Buell Project Manager State Coastal Conservancy 1330 Broadway, 13th Floor Oakland, CA 94612

RECEIVED

SEP 14 2010

**COASTAL CONSERVANCY** 

SUBJECT: Comments regarding the San Francisco Bay Area Water Trail Plan Draft ROAKEAND. CALIF. EIR (August 2010.)

Dear Ms. Buell,

The San Francisco Bay National Wildlife Refuge Complex (SFBNWRC) appreciates the opportunity to comment on the Draft Revised EIR for the San Francisco Bay Area Water Trail Plan. As the managing agency for several potential Water Trail sites and for many miles of Bay shoreline, we are very interested in ensuring that the development and use of the Water Trail is done in such a manner that it does not negatively impact the value of these aquatic habitats for our Bay-area wildlife. We are also interested in supporting safe, wildlife dependent recreation on our lands. With these points in mind, we have a number of items for your consideration regarding the Draft EIR.

#### **General Comments**

The Water Trail Plan, currently in final draft form, is a guide to trail implementation for the agencies and organizations that would develop and manage WT access sites and programs, as well as trail proponents and other stakeholders involved in implementation.

There are two main issues regarding the increased use of boating NMSB in the bay area: 1) increased disturbance into sensitive habitats, and 2) increased safety concerns for novice boaters. Both of these are of particular concern for the South Bay, with its extensive mudflats, low water levels, and tidal marsh habitat with endangered species, harbor seals, and extensive bird use.

How would the Water Trail provide a source and/or method of funding available to all landowners and managers to provide for site development, upkeep and maintenance (including signage, trash clean up, education and outreach), and law enforcement/rescue? Due to complications with funding between state and federal agencies, it seems unlikely that a funding source for increased staff could come from SCC to USFWS or other resource agency.

USFWS-1

The Refuge's Environmental Education Center has already received calls from boaters using the



new Alviso Marina launch site who have been lost while boating and/or confused about tides and the rules for boating here. Information signs do exist but are unclear. There is no information about who to call in case of emergency or for assistance. Also, although this launch is not on Refuge property, it now allows people easier access into our property, and we don't have the resources to put signs up along the slough channel to alert people to the fact that it is endangered species habitat and therefore off limits to public access.

While the mitigation measures mentioned in the 3.7-3.9 sections include educational, outreach, and signage programs as well as a docent program, without some level of enforcement and patrol this will only work to a certain extent. Encouraging boaters to exhibit good behavior is a great idea and will work for many. The Water Trail is "improving access in certain areas of the Bay margins (and will) introduce non-motorized boaters to areas that did not experience previous boating use." By creating the Water Trail and the associated outreach materials, maps, etc., use will increase more at advertised Water Trail sites. This is true of the cumulative impacts sections of the DEIR as well.

USFWS-2

In planning for the Water Trail's public outreach materials and site signage, we are concerned that the different wildlife buffer distances identified in the Draft Revised EIR will be difficult for the public to remember and estimate. Effectively communicating this information will be a challenge and without a successful, coordinated effort, it will be ineffective as a mitigation tool against wildlife impacts.

USFWS-3

In addition, any signs posted in or near the marsh should not be able to be used as a raptor perch, which could increase predation on endangered species.

USFWS-4

#### Page Specific Comments

Text in italics is Draft Revised EIR text or section headers provided for reference.

ES-2 Please spell out "non-motorized small boat" with this first use of the abbreviation NMSB.

USFWS-5

2-4 The primary project area for the WT is defined...

Note that for the NWR and other land managers, most of the areas are currently closed to the public and that we would not support opening the area for public boating or other uses due to the presence of sensitive species.

USFWS-6

2-5 In addition, salt pond complexes around the perimeter of South San Francisco Bay and Redwood City and along the Napa River are mostly undeveloped and provide important habitat for birds.

USFWS-7

Should say "managed pond complexes" or something less specific than salt ponds as many of these are no longer in salt production. This is true throughout the DEIR document.

**2-22** Access in these areas is physically constrained by the shallowness of the Bay and the potential for becoming stranded in mudflats at low tide.

This needs to be stressed in any education/outreach program.

#### TABLE 2.3.2-1

- A27: This site is more appropriately called Alameda Flood Control Channel
- SC2: Alviso Marina currently exists, change language
- SC3: Site may have wildlife disturbance conflicts if designation as part of WT brings more users here. This area is known to have endangered species.
- SM2: On the map this looks like it is located at the Moseley Tract, owned by the city of San Jose and mudflat habitat; therefore not a safe launch site. It is outboard of Refuge pond R1.
- SM25: this is a low tide portage associated with the flow restrictors (the flow restrictors will not be crossable at low tide) but not a dock and there would be no land-based public access associated with it.
- SN3: This borders along private property and may require permissions depending on where boundaries fall. Additionally, the route associated with the site may not be the most navigable route.

#### TABLE 2.3.3-1 STRATEGIES FOR WT IMPLEMENTATION #23

What about providing resources for law enforcement to access sites (boats are extremely limited to emergency and LE agencies in the Bay area)? Who will be able to respond to boaters in distress in a timely manner?

2-36

These four strategies recognize that resources for maintenance may be limited, and recommend that the level of facilities at any specific trailhead be limited to those that the site owner/manager could reasonably maintain.

If the land manager was unable/unwilling to maintain such sites would they be removed from the WT maps as well as not be promoted as part of the WT? For example if Cargill was not willing to have their launch at Jarvis officially recognized would it be removed from any maps? Or if CDFG was unable to maintain the ELER proposed launch?

- 2-50 Wildlife and habitat protection organization... Please define this group.
- 2-56 Regarding Federal agencies and NEPA process: Any Federal agencies involved as a land owner, manager, or permit giver will also have to do an endangered species consultation with the USFWS Sacramento Field Office. (This is stated later on Page 2-59)

#### Figure 3.7.2-1

The inactive/active salt ponds designated on the map need to be updated. Many have changed.

USFWS-9

USFWS-10

USFWS-11

USFWS-12

USFWS-13

#### 3-37 Mitigation Measure Rec-M4C: Safety Signage

The California DFG sets the dates for the waterfowl hunting season, and these dates change every year. Trailhead owners/managers must commit to updating their hunting signs with each year's new dates.

The majority of the Bay's navigable waterways are open to hunting throughout the season. The four-mile standard of this measure would then be redundant. Practically all WT sites would be within or provide access to an area where hunting occurs. Providing hunting awareness materials and installing proper signs should be standard at all WT sites. With the possibility of multiple-day trips on the WT, NMSB users need to be informed of hunting at their chosen launch site even if there isn't hunting in the immediate area.

USFWS-15

In addition, NMSB are at an increased disadvantage because their method of travel is very quiet, and therefore hunters may not be aware that other traffic is in the area. As in terrestrial hunting areas, signage and other outreach materials should recommend proper clothing (e.g. orange vests, hats, etc.) and the use of other warning devices during hunt season.

#### 3-74 Diked Non-Tidal Salt Marsh

Are non-tidal salt marshes non-jurisdictional?

3-83 (Gavin Archibald, pers. comm. 2009; Katharyn Boyer, pers. comm. 2009)

This reference is an anomaly; many other paragraphs and sentences would need references as well to be consistent.

**3-87** Generally, widespread wetland and terrestrial weeds have already "saturated" the Estuary as mature invasions.

While this statement is better qualified in following sentences, this sentence implies that there is no more room for, and therefore implies there is no need to worry about "widespread wetland and terrestrial weeds."

- 3-88 Of the 14 species listed in *Table 3.7.2-2...* we would add Mediterranean saltwort to this list.
- 3-90 However, vegetation gaps could also facilitate non-native plant invasions.

The second explanation "vegetation gaps could also facilitate non-native plant invasions" should be emphasized over the first, perhaps less likely, one.

..and paths that do not lead to the water would not be due to NMSB use.

031 110 13

USFWS-16

USFWS-17

USFWS-18

USFWS-19

USFWS-20

Boaters wishing to find a private spot for use of the "facilities" (i.e. to find cover to go to the bathroom) could certainly be responsible for paths that do not lead to the water.

3-91 MITIGATION MEASURE BIO-M3: ESTABLISH TRAILHEAD RESTRICTIONS, PUBLIC EDUCATION, SURVEYS, AND SIGNAGE

USFWS-22

Without increased patrol and law enforcement, there would be no way to enforce these "suggestions." Social trails would need to be inspected for more often than once a year, as by then they would be well-established and more difficult to get rid of both physically and in the minds of the people who may be using them regularly.

USFWS-23

3-93 The season of peak use...however, timing is highly variable year-to-year and some species may peak in abundance in early October or late March.

Should be re-worded: timing is somewhat variable year to year, and some species peak in abundance during fall migration (e.g. October) and other during spring migration (e.g. March).

**3-94** The distribution of waterbirds within the Estuary's waters is well documented for most species that over-winter and for all local colonial nesters (e.g., cormorants, egrets and herons) or special-status species (e.g., western snowy plover [Charadrius alexandrinus nivosus]).

usfws-24 n veys 4a.

References needed here, for example: USGS and SFBBO unpub data, Robinson-Nilsen, C., C. Schacter, and J. Demers. 2009a. Colonial Waterbird Nesting Summary for San Francisco Bay, 2009. Robinson-Nilsen, C., J. Demers, and C. Strong. 2009b. Western Snowy Plover Numbers, Nesting Success, Fledging Success and Avian Predator Surveys in the San Francisco Bay, 2009. Strong, C., Spear, L.B., T.P. Ryan. R.E. Dakin. 2004a. Forster's Tern, Caspian Tern, and California Gull Colonies in San Francisco Bay: Habitat Use, Numbers and Trends, 1982-2003. Waterbirds, 27: 411-423.

3-94 Shorebirds. Please note that they also roost on pond levees.

USFWS-25

3-94 Wading Birds. This guild includes egrets, herons, and night herons that utilize emergent marsh, marsh edge, and shallow open water habitats. These birds generally do not breed inside marshes, instead forming nesting colonies in trees.

Significant colonies of night herons, green herons, and to a lesser extent snowy and great egrets nest in slough channels in bulrush-type vegetation in the estuary. Within the salt/managed pond system, great blue herons also nest on duck blinds and other structures near potential WT sites. (Colonial Waterbird Nesting Summary for San Francisco Bay, 2009. Robinson-Nilsen, C., J. Demers, and C. Strong. 2009b. and Kelly et al. 2006.

USFWS-26

3-94 Gulls. Although this guild includes many species of gulls, California gulls (Larus californicus) are the sole species discussed in this EIR.

GULLS AND TERNS. Significant numbers of Forster's terns and Caspian terns, and the endangered California least tern nest in colonies in the estuary as well and could be impacted by the WT. Many of these species are indeed discussed within this EIR.

USFWS-27

3-95 Diving waterfowl: Grebe species are not mentioned.

USFWS-28

3-98 (Zostera marina) Delete, already used scientific name in text

USFWS-29

3-98 Four species of wading birds nest in or around the Estuary shoreline

USFWS-30

Green herons do not nest in colonies but do nest in the estuary.

3-99 CALIFORNIA GULLS

USFWS-31

This species is no longer considered a SoC by the State. Unless they are being discussed as a nuisance species, we would advise taking them out and/or adding in the tern species.

**3-100** TABLE 3.8.2-2. SENSITIVE BIRDS AND EXISTING LEVELS OF POTENTIAL DISTURBANCE

Please add to the "interaction" column for Forster's terns, Caspian terns, snowy plovers, wading birds: Roosting sites and foraging area may overlap with NMSB use areas.

USFWS-32

Black oystercatcher also nests on Marin Islands.

California brown pelican roosts in large numbers on the Alameda Point jetty.

Colonial nesting wading birds: Also nest in marsh vegetation in tidal creeks and lagoons.

3-101 Figure 3.8.2-2.

USFWS-33

Map legend categories are very unclear and undefined. Clapper rails are found in marshes indicated in red and blue, as well as many others from San Pablo down to the South Bay.

**3-102** Figure 3.8.2-3 LETE SNPL

Some of the least tern breeding habitats noted on this map have not been used in decades, if ever (Bair Island, 2 in extreme South Bay). What does "recovery areas on levees" mean? There are more areas used by wintering plovers throughout the Bay as they move about freely in flocks.

USFWS-34

3-103 Figure 3.8.2-4

USFWS-35

Heron rookeries: rookery site also exists at Coyote Creek Lagoon

3-106 Black oystercatcher

Also nests on Marin Islands.

USFWS-36

**3-106** BLACK RAIL The breeding population in the Bay is confined almost entirely to San Pablo and Suisun Bays (Figure 3.8.2-2).

USFWS-37

Figure 3.8.2-2 is for clapper rail only.

USFWS-38

Cormorants also nest in large numbers on transmission towers in Steinberger Slough (Bair Island) and in ponds adjacent to Stephens Creek.

JSFWS-38

3-109 Snowy plover: should say figure 3.8.3-3
Oliver Salt Ponds, Dumbarton: this area is no longer used by plovers.

USFWS-39

3-111 Federal Regulations and Plans

Please change "Don Edwards NWR" to its correct name, Don Edwards San Francisco Bay National Wildlife Refuge or Don Edwards San Francisco Bay NWR.

USFWS-40

3-116 METHODOLOGY

3-108

USFWS-41

Disturbances of listed species is also considered "incidental take." Be sure to use correct take definition throughout document.

3-117 Increases in NMSB use in such areas could increase energetic costs to waterbirds. At the same time, improved education of all NMSB users would counteract such disturbance by reducing the likelihood that any particular boater would disturb waterbirds.

See comment below.

3-120 MINIMIZATION OF DISTURBANCE IMPACTS ASSOCIATED WITH WATER TRAIL SITES

USFWS-42

Wildlife photographers and other nature enthusiasts are major contributors to wildlife disturbance, however as a whole they seem to be unaware of the major impact they have on wildlife. Specific efforts may need to target these groups to raise awareness that disturbance from one person, especially those who want to get up close, can be and is damaging to wildlife. How will the WT's outreach and educational materials raise awareness of and compliance with proper wildlife viewing etiquette? Trailhead signs will probably not be enough, and we recommend that wildlife viewing (or when necessary, not viewing) etiquette be integrated into all aspects of the WT's outreach and educational materials.

**3-121** Impact Bio-5: Disturbance of Rafting Waterfowl from Roosting and Foraging Habitat

Rafting waterbirds are going to be difficult to see for anyone sitting low in the water, such as in a canoe or kayak. Disturbance distance recommendations will likely not be met by

most people who won't see the birds until they have disturbed them, and the birds will be flushed off their rafting sites.

3-122 After implementation of the educational signage and a docent program, disturbance was reduced by more than 50 percent and successful breeding was reestablished. The docent program included reminding people about leash laws and not trespassing into the roped off plover breeding area, and scaring crows from nests.

USFWS-44

While this is a good example, it should be noted that this was a massive effort for a very small area and could not be replicated for many sites in the estuary. Also because this was done at a nesting site and on land, the area was able to be physically roped off and was of manageable size.

3-122 ... the need to maintain a 250-m non-disturbance zone (buffer) around congregations of waterbirds

USFWS-45

What would be used to teach/show people how far this is? Most people are not able to gauge this sort of distance just by "eye balling" it.

3-124 IMPACT BIO-6: DISTURBANCE OF WADING BIRD, SHOREBIRD, AND BROWN PELICAN ROOSTING AND FORAGING HABITAT

USFWS-46

Not addressed here is the fact that terns and brown pelicans are plunge divers and use deeper channels for foraging which would not be available to them if NMSB were using these areas.

3-127 Impact Bio-8; Second paragraph

USFWS-47

In addition to destroying active nests, users disembarking could also step on chicks.

3-128 700-foot

Meters used in other measurements given.

USFWS-48

3-129 During other periods of the year and non-high-tide events, boaters should not land on or disembark into vegetated marshes that could support rails.

USFWS-49

No entry at any time of year into vegetated marshes is allowed (on Refuge property) without special permission. Better to make this a blanket year-round condition for all users of the WT as this would better protect the rails and other marsh species and habitat.

The distance is based in part... 3-129 Mitigation Measure Bio-M8

Buffer distance from clapper rail habitat should be adequate for WT users as long as they are not noisy, but buffer distance may be difficult for the public to estimate. Perhaps it could be put in

terms of "kayak lengths" or something similar?

3-130 Impact Bio-10: "disturbing adults of any species"

This action could result in predators killing adults, chicks or eggs, not just chicks.

USFWS-51

3-131 Impact Bio-11

Impacts could also occur in the non-breeding season if clapper rails are disturbed from or prevented from using high tide refugia. Predation rates could be increased.

USFWS-52

3-131 Mitigation Measure Bio-M11: As determined by the USFWS...

Restrictions on construction activities during winter high tides must also be in place to prevent increased predation. Construction activities could flush rails from high tide refugia or prevent them from seeking cover in these areas. \*\* This measure will also protect salt marsh harvest mice that use refugia.

USFWS-53

3-135 TABLE 3.9.2-2

The Refuge has seal count data for Newark Slough and Mowry Slough.

USFWS-54

3-139 Salt marsh harvest mouse

Also CA fully-protected species.

USFWS-55

3-145 Impact Bio-12

Also implement Mitigation Measure Bio-M11 (as revised) to protect use of high tide refugia by small mammals.

USFWS-56

3-145 Mitigation Measure Bio-M12

Posting tide charts would assist in preventing people from getting stuck. Also interpretive display of what the area looks like at low versus high tide, maybe with a stuck kayaker shown?

USFWS-57

3-155 First bullet point: Trailhead owner/managers shall...

Waste disposal: Trash must be picked up frequently.

USFWS-58

3-155

Predators: In order to evaluate whether predator numbers increase in response to WT, predator monitoring must be conducted before and after WT. Land owners/managers must prohibit feeding of feral cats or other wildlife and enforce this prohibition. Feral cat feeding colonies existing on site must be removed promptly.

USFWS-59

3-185 Fourth paragraph

Of your proposed Don Edwards SF Bay NWR sites only SM25 actually falls within the Refuge boundaries. We do not own or manage A24, the Jarvis Landing site, which is solely controlled by Cargill, Inc. We are not familiar with A27, Coyote Hills, and do not plan to have a site there. Perhaps this site is misattributed to us? If it exists, is EBRPD the proper managing agency?

USFWS-60

5-5 The No Project Alternative would not include the Proposed Project's educational component and its avoidance strategies, however.. (Fix TYPO)

USFWS-61

#### Page 25 (Appendix)

Open water travel by non-motorized watercraft could have potential adverse effects on rafting waterbirds, all of which are protected under the Migratory Birds Treaty Act and several of which are special status species (CDFG 2006)—American White pelican (Pelicanus erythrorhynchos), California brown pelican (Pelecanus occidentalis californicus), double-crested cormorant (Phalacrocorax auritus), and California gull (Larus californicus).

USFWS-62

Current list of CDFG Species of Special Concern would not include these species.

Reference:

Shuford, W. D., and Gardali, T., editors. 2008. California Bird Species of Special Concern: A ranked assessment of species, subspecies, and distinct populations of birds of immediate conservation concern in California. Studies of Western Birds 1. Western Field Ornithologists, Camarillo, California, and California Department of Fish and Game, Sacramento.

Thank you for considering the above comments. We hope that they will be used to improve the plan for both future Water trail users and our unique Bay-dependent wildlife. If you have questions regarding our comments, please contact me at (510) 792-0222 or Jennifer Heroux at (408) 262-5513 x106.

Sincerely,

For Mendel Stewart

Project Leader

San Francisco Bay NWR Complex



### United States Department of the Interior

NATIONAL PARK SERVICE Golden Gate National Recreation Area Fort Mason, San Francisco, California 94123

IN REPLY REFER TO:

L76 (GOGA-PLAN)

September 22, 2010

Ann Buell, Project Manager State Coastal Conservancy 1330 Broadway, 13th Floor Oakland, CA 94612

Re: National Park Service Comments on the Revised Draft Environmental Impact Report for the San Francisco Bay Area Water Trail Project

Dear Ms. Buell:

The National Park Service (NPS) continues to support the proposed San Francisco Bay Area Water Trail Project. We submitted comments on the initial Draft Environmental Impact Report (Draft EIR) in July 2008. We appreciate that the Conservancy staff has addressed and incorporated many of our comments on that document into the Revised Draft EIR.

There are a total of four proposed launching/landing sites located within the jurisdiction of the National Park Service. The three in the Golden Gate National Recreation Area are Kirby Cove (M1) and Horseshoe Cove (M2) in Marin County, and Crissy Field (SF-12) in San Francisco. SF-10, Aquatic Park, is part of the San Francisco Maritime National Historical Park (SFMNHP). NPS offers the following comments on the Revised Draft EIR.

Program Implementation

The Revised Draft EIR acknowledges that for federally owned property such as National Park Service land, site alternations and policy adoption by NPS will require a compliance determination under the National Environmental Policy Act (NEPA). Most likely the outcome would be a Categorical Exclusion, assuming consequent environmental impacts would be minimal. The type of interagency agreement between the lead agency implementing and managing the Water Trail Plan and NPS to oversee the NPS sites still needs to be identified. For site improvements including signage associated with Water Trail trailhead designation, a lead NPS contact from each park, GGNRA and SFMNHP, would likely be designated.

NPS-1

All proposed Water Trail signage at each designated landing/launching sites on NPS property will need to be reviewed for compatibility with NPS sign design standards and approved by specific park that has jurisdiction over the site.

NPS-2

#### Promoting Transit Access and Boat Rentals

The preparers of the Revised Draft EIR appropriately consulted staff at each of the NPS affected parks. One of NPS core challenges is described on p. 3-35 of the document where current use of both Kirby Cove and Crissy Field results in either a shortage of parking at peak times, or in the case of Kirby Cove, restricted vehicle access to the waterfront parking and therefore inhibits easy access to the site from land. NPS encourages the Conservancy to add to Table 2.4.3-1 Site Description Components (p. 2-53) details about the gaining access to a site through public transportation and disclose a site's universal accessibility status, to facilitate planning for a broad spectrum of prospective users.

NPS-3

The Water Trail Program is largely auto-dependent, contemplating parking lot improvements at popular launching sites. NPS recommends that the Water Trail Program also consider enhancing and promoting locations that are accessible by public transit and have the potential to support rental equipment or guided services where appropriate given the conditions. There could be great opportunities to have the Program expand the benefits of the Program to a broad spectrum of the local and visiting public who do not have access to cars or boats.

NPS-4

#### Biological Resource Concerns

It would be good to clarify that launch area at Site SF-12, Crissy Field, is at East Beach. The Revised Draft EIS should acknowledge that the west portion of Crissy Field has greater environmental sensitivity, due to the designation of the Wildlife Protection Area and protections for the federally threatened Western Snowy Plover which extends from Torpedo Wharf to the concrete riprap which is about 700 feet east of the former Coast Guard Station. It includes all uplands and all tidelands and extends from the high water mark to 100 yards off shore.

NPS-5

Figure 3.8-2-3 Western Snowy Plover and California Least Tern Habitats, in the Revised Draft EIR does not reflect the Western Snowy Plover protection area described above at Crissy Field. While this may not be a breeding location for the species, NPS is managing it as a restricted area for plover protection, which should be acknowledged on this map.

#### Cultural Resource Coordination

The Revised Draft EIR offers little specific information about Cultural or Historic sites that might be affected by the program, deferring the cultural resource analyses to be addressed at the second tier, the site specific analysis.

NPS-6

The Cultural Resources section of the Revised Draft EIR, should note that Crissy Field (SF12) is within the Presidio of San Francisco National Historic Landmark District, and that Kirby Cove (M1) and Horseshoe Cove (M2) are within the Forts Baker, Barry and Cronkhite National Register District. The document should include additional archeological mitigation measures indicating that any actions or development at the Crissy Field, Kirby Cove, or Horseshoe Cove sites must be compatible with their respective Historic Landmark Districts. Similarly, Aquatic Park is also a part of its own National Historic Landmark District. As such, National Historic Preservation Act Section 106 reviews will be

performed in coordination with each park's respective Cultural Resources staff for any Water Trail improvements at each of these sites.

NPS also recommends that the education and stewardship objective of the Water Trail as summarized on page 2-39, (Section 2.3.5), include cultivating appreciation of and respect for historic and cultural landscapes and artifacts around the Bay.

NPS-7

NPS Permits for Commercial Group Users

NPS has a requirement that all leaders of commercial guided services activities including commercial kayaking, (organized group trips of 12 or less) obtain a Commercial Use Authorization to cover the time period they are within the GGNRA. If for one time use, or continued use by a nonprofit group sponsor, the group leader would obtain a Special Use Permit from NPS.

NPS-8

Other Comments

Overnight parking and/or mooring at Fort Baker and Crissy Field would have to be planned in consultation with NPS to define parameters, identify appropriate areas and address additional law enforcement or security needs.

NPS-9

The Revised Draft EIR indicates that the High Opportunity Sites (HOS) will require no further improvements, but Kirby Cove, (M1), might need provisions for tying up or hauling watercraft out of the water for overnight camping.

NPS-10

The NPS supports the Conservancy's intent to build and support site stewardship programs to oversee and maintain the Water Trail sites. NPS hopes to work cooperatively with the Conservancy in this effort, as successful stewardship is critical to the success of the program.

NPS-11

NPS appreciates having the opportunity to comment on the Revised Draft EIR for the San Francisco Bay Water Trail Plan. If you have any questions or request more information, please contact Liz Varnhagen, Planning Division, GGNRA, at (415) 561-2888 or <u>Liz Varnhagen@nps.gov</u>.

Sincerely,

Nancy Hornok

Planning Division Chief

## Flex your Power

#### Memorandum

Date: September 21, 2010

To: Ms. Ann Buell

State Coastal Conservancy 1330 Broadway, Suite 1300

Oakland, CA 94612

From: Charles Armor, Regional Manager

Department of Fish and Game - Bay Delta Region, 7329 Silverado Trail, Napa, California 94558

Subject: San Francisco Bay Area Water Trail Plan, Draft Environmental Impact Report,

SCH #2007112080, Alameda, Contra Costa, Marin, San Francisco, San Mateo, Santa

Clara, Solano, and Sonoma Counties

This memorandum is intended to summarize the Department of Fish and Game's (DFG) concerns regarding the botanical, wildlife and fisheries impacts associated with the San Francisco Bay Area Water Trail Project (Project). The Project proposes to implement a Water Trail Plan designed to improve non-motorized small boat (NMSB) access to San Francisco Bay. A total of 112 potential sites have been identified where proposed improvements may range from signage only to full development of entirely new access sites. Typical facility improvements may include, as examples, new docks, ramps, boat storage facilities, parking improvements, and restrooms.

As a Trustee Agency pursuant to the California Environmental Quality Act (CEQA) Section 15386, DFG has reviewed the draft Environmental Impact Report (EIR) for the proposed Project and offers the following comments and recommendations regarding sensitive resources.

#### CEQA Compliance (Section1.3)

The following primary objects are listed in the draft EIR: 1) Disclose to decision makers and the public the significant environmental effects of proposed activities, 2) Identify ways to avoid or reduce adverse environmental effects, and 3) Prevent or reduce adverse environmental effects by requiring implementation of feasible alternatives or mitigation measures.

To meet the primary objectives described in Section 1.3, additional CEQA analysis is needed on a per project basis. The draft EIR does not appear to include an adequate assessment of potential biological impacts that may occur as part of the Project or over the life of the Project.

Site-specific biological analysis is needed regarding potential impacts as a result of construction and future activities identified over the life of the Project. The analysis may identify additional significant impacts or introduce the need for mitigation measures which are not currently identified in the draft EIR.

DFG-1

#### Water Trail Location (Section 2.1.4)

Impacts to creeks and wetlands should be avoided where possible. There should be no net loss of either wetland acreage or wetland habitat value. Mitigation for lost wetlands or creeks must include the creation of new wetlands. Disturbance to riparian vegetation should be minimized, exotic species removed, and disturbed areas revegetated with native species.

DFG-2

For any activity that will divert or obstruct the natural flow, or change the bed, channel, or bank (which may include associated riparian resources) of a river or stream, or use material from a streambed, DFG may require as LSAA, pursuant to Section 1600 et seq. of the Fish and Game Code, with the applicant. Issuance of an LSAA is subject to CEQA. DFG, as a responsible agency under CEQA, will consider the CEQA document for the project. The CEQA document should fully identify the potential impacts to the stream or riparian resources and provide adequate avoidance, mitigation, monitoring and reporting commitments for completion of the agreement. To obtain information about the LSAA notification process, please access our website at http://www.dfg.ca.gov/habcon/1600/; or to request a notification package, contact the Lake and Streambed Alteration Program at (707) 944-5520.

DFG-3

#### Project Alternatives (Section 5.3)

The draft EIR considers the following three alternatives to the Project.

- Alternative 1 No Project: The No Project alternative assumes continued public use of existing sites without any educational/public outreach programs or support for site improvements other than what already exists.
- Alternative 2 High Opportunity Sites (HOS) Only: Under this alternative, only sites
  with minimal improvement needs and no significant management issues would be
  included in implementation of the Plan.
- Alternative 3 Enhanced Water Trail Plan Alternative: The Enhanced Water Trail Plan Alternative includes the full development of approximately 112 sites (including approximately 57 HOS sites) and includes a comprehensive education program; a navigational safety element; boat washing facilities; and green house gas best management practices.

DFG-4

DFG recommends the Coastal Conservancy adopt Alternative 2 which develops the High Opportunity Sites (HOS) Only. This alternative would not require launch facilities to have additional improvements beyond signage and there are no major management issues (e.g. wildlife disturbance) with the existing facilities. With additional site-specific analysis and incorporation of strategies such as an educational program to further reduce current or potential future impacts, this alternative would result in less disturbance to listed species and wildlife.

By choosing Alternative 2 and implementing an educational program, the Coastal Conservancy would still be able to meet the following goals as listed according to the purpose and need of the project:

- Improved NMSB access to San Francisco Bay.
- Reduced impacts to sensitive wildlife and habitat, and other resources through appropriately directing the location and types of development associated with access sites and through education of boaters.
- Increased high quality information regarding NMSB access facilities through the development of educational and outreach materials.
- Increased stewardship of the environment and of trailhead facilities.

DFG discourages Alternative Concept 3 and disagrees with the conclusion that this is the "environmentally superior" alternative as discussed in the draft EIR (Page ES-4). According to the Water Trail Plan as described in the Project Description (Section 2.3.3), the Project would be carried out by private entities and would not include enforcement capacity. This lack of enforcement capacity would not adequately ensure mitigation measures would be carried out (e.g. wetland disturbance buffers, buffers from nests). Therefore, this alternative would likely result in the permanent and long-term disturbance of important tidal and intertidal habitats throughout the entire San Francisco Bay-Delta region which are essential for many special-status species occurring in the Project area.

#### Environmental Setting, Impacts, and Mitigation Measures (Section 3.0)

Mitigation requirements for impacts to special-status species should be determined in coordination with the resource agencies and fully disclosed in the CEQA document prior to certification of the EIR.

DFG-5

Additionally, a California Endangered Species Act (CESA) Permit must be obtained if the project has the potential to result in take of species of plants or animals listed under CESA, either during construction or over the life of the project. Issuance of a CESA Permit is subject to CEQA documentation; therefore, the CEQA document must specify impacts, mitigation measures, and a mitigation monitoring and reporting program. If the project will impact CESA listed species, early consultation is encouraged, as significant modification to the project and mitigation measures may be required in order to obtain a CESA Permit or adequately avoid impacts to fully protected species.

#### Mitigation Measure BIO-M2, BIO-M4

We request that site-specific sensitive-status plant surveys be provided to DFG for review. If any listed species are located, we recommend that the proposed project include adequate analysis of cumulative impacts and avoidance measures. As appropriate, off-site mitigation lands should be determined in coordination with the resource agencies and fully disclosed in the CEQA document prior to certification of the EIR. All off-site mitigation lands should be secured by the project proponent with approvals from the resource agencies prior to project construction.

DFG-6

#### Mitigation Measure BIO-M6, BIO-M7, BIO-M8, BIO-M11

Fully protected species may not be taken or possessed at any time and no licenses or permits may be issued for their take except for collecting these species for necessary scientific research and relocation of the bird species for the protection of livestock.

DFG-7

The Project area provides suitable habitat for the fully protected brown pelican (*Pelecanus occidentalis*), California least tern (*Sterna albifrons browni*), California clapper rail (*Rallus longirostris obsoletus*) and the California black rail (*Laterallus jamaicensis coturniculus*). Fully-protected birds, or parts thereof, cannot be taken or possessed at any time. The draft EIR identifies potential direct and indirect impacts such as loss of habitat due to project construction, modification to predator-prey dynamics and ongoing harassment by trail users over the life of the project. As described in the draft EIR, trail user education regarding buffer zones from fully protected species does not include enforcement capacity, and is therefore not considered adequate to avoid significant impacts to nesting birds. Mitigation measures to ensure avoidance which do not cause "take" of these species must be developed and disclosed during the CEQA process.

#### Impact BIO-12

The salt marsh harvest mouse (*Reithrodontomys raviventris*; SMHM) is a state and federally endangered and fully protected species. The draft EIR identifies potential direct and indirect impacts such as loss of habitat due to project construction, trampling of wetland vegetation, trampling of individuals and trash accumulation that may increase predator populations. Appropriate mitigation measures to ensure avoidance of this fully protected species which do not cause "take" of the SMHM must be developed and disclosed during the CEQA process.

DFG-8

#### Mitigation Measure BIO-M7

The western burrowing owl (*Athene cunicularia*) is considered a species of special concern by DFG, and could potentially occupy the project area. Take of western burrowing owls is prohibited by Section 3503.5 of the Fish and Game Code, which states: "It is unlawful to take, possess, or destroy any birds in the orders ... Strigiformes or to take, possess, or destroy the nest or eggs... except as otherwise provided by this code.." This includes causing nest abandonment, loss of reproductive success or direct take of an individual.

DFG-9

Where avoidance and minimization measures are infeasible, the design of mitigation measures for owls should consider the local, regional, and larger-scale environmental context in which the habitat loss or alteration is occurring. Mitigation required must be roughly proportional to level of impacts (including cumulative impacts) in accordance with the provisions of CEQA [Guidelines Sections 15126.4(a)(4)(B), 15064, 15065, and 15355]. Mitigation measures must be specific, feasible actions that will actually improve environmental conditions, in order for them to be considered adequate mitigation.

#### **General Comments**

- Staging areas for equipment and material shall be outside the work area in a disturbed location devoid of vegetation away from sensitive SMHM habitats and wetland features.
- All dirt/gravel roads used to carry out Project activities shall be properly maintained or improved to prevent fine sediment from entering the waterways.

DFG-10

 DFG recommends establishing a speed limit not more than 15 mph for vehicles that will be driving along off-road access routes to prevent inadvertent mortality of wildlife that may be present along the vicinity of the access routes.

DFG appreciates the opportunity to provide comments on the MND for the proposed Project and is available to meet with you to further discuss our concerns. If you have any questions, please contact Ms. Suzanne Gilmore, Environmental Scientist, at (707) 944-5536; or Mr. Greg Martinelli, Water Conservation Supervisor, at (707) 944-5570.

cc: State Clearinghouse

RECEIVED

SEP 2 2010

COASTAL CONSERVANCY OAKLAND, CALIF.

# Department of Conservation & Development

#### **Community Development Division**

County Administration Building 651 Pine Street North Wing, Fourth Floor Martinez, CA 94553-1229

Phone: (925) 335-1240

Contra Costa County



Catherine O. Kutsuris Director

September 9, 2010

Ann Buell State Coastal Conservancy 1330 Broadway Oakland, CA 94612

#### Dear Ms. Buell:

Below are comments from the Transportation Planning Section of the Contra Costa County Department of Conservation and Development on the August 2010 version of the *Draft Revised Environmental Impact Report on the San Francisco Bay Area Water Trail Plan* (DEIR). Thank you for the opportunity to comment on this important document.

The County appreciates the information added to the DEIR regarding aquatic debris. Given that implementation of the proposed project is likely to create a new impact by introducing new users to this hazard, the County believes further attention should be given to the matter in the *Environmental Setting, Impacts and Mitigation Measures* chapter. We respectfully suggest the following edits but would welcome another approach in the mitigations to address the issue (comments are in **bold underline**):

#### Page 3-49: IMPACT NAV-1:

INCREASED RISK OF INCIDENTS INCLUDING ACCIDENTS INVOLVING LOSS OF LIFE, OR COLLISIONS BETWEEN NMSB USERS, AQUATIC DEBRIS, AND OTHER BOATS

## Page 3-50: MITIGATION MEASURE: NAV-M1A: DEVELOP AND IMPLEMENT SAFETY SIGNAGE:

As outlined in Strategy 17 and in cooperation with Cal Boating and site owners/managers, the WT program shall ensure inclusion of notices and/or maps of nearby commercial shipping or ferry terminal routes <u>and locations of aquatic debris</u> into signs at WT sites.

Strategy 17 (Appendix D – Page 6) and the *Development of the Water Trail Signage* section (Page 2-58) already contain language addressing "safety" issues. The County's comments above should improve the internal consistency of the document considering the new language added regarding aquatic debris (Page 3-39).

If you have any questions on these comments please feel free to contact me at 925-335-1243 or via email at john.cunningham@dcd.cccounty.us

Sincerely,

John Curmingham

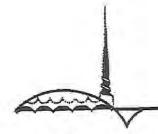
Transportation Planning Section

RECEIVED

CCCDCD-1

SEP 13 2010

COASTAL CONSERVANCY OAKLAND, CALIF.



## COUNTY OF MARIN DEPARTMENT OF PARKS AND OPEN SPACE

3501 CIVIC CENTER DRIVE, SUITE 260, SAN RAFAEL, CA 94903 415/499-6387 - FAX 415/499-3795

September 21, 2010

Ann Buell
California State Coastal Conservancy
1330 Broadway, Suite 1300
Oakland, CA 94612

RE: San Francisco Bay Area Water Trail Plan (Plan)

After reviewing the environmental impact report (EIR) for the above-referenced project, the Marin County Department of Parks and Open Space District (POS) has the following comments about the project. Most of staff's comments are on the merits of the project and do not reflect the adequacy of the EIR.

- Table 2.3.2-1 of the "Water Trail Backbone Sites" identifies the County of Marin as the owner of site M30, near San Quentin. The County of Marin does not own or manage this beach, which appears to be owned by the Heron Court Homeowners Association.
- Included in the report is a detailed "Trailhead Designation Process" that describes how landowners can voluntarily establish a launch site. However, the plan does not describe how to opt out from the designation of a launch site. POS staff has concerns relating to the impact that the designation of a launch site could have on sensitive habitat areas, parking, and other recreational uses of the area, and recommends that the plan provide for a process to opt out of a designated launch site.
- In its initial contact with the Coastal Conservancy and the San Francisco Bay Conservation and Development Commission, POS staff recommended that the plan identify Paradise Beach on the Tiburon Peninsula as a potential launch site. This site is not included in the plan, but POS staff continues to recommend it as an appropriate launch site.
- The proposed plan designation of McInnis County Park in San Rafael (Site M43) as a launch point. This site is adjacent to habitat that supports the California clapper rail and the salt marsh harvest mouse, which are federally listed endangered species. The County is committed to protecting the habitat values of this area and requests that the Water Trail Plan incorporate appropriate measures to protect this resource.

Thank you for the opportunity to comment on the project. If you have questions, you can contact me at (415) 499-3745 or <a href="mailto:raives@co.marin.ca.us">raives@co.marin.ca.us</a>.

Sincerely,

Senior Open Space Planner

MDPOS-1

MDPOS-2

MDPOS-3

MDPOS-4

### County of Santa Clara

Parks and Recreation Department

298 Garden Hill Drive Los Gatos, California 95032-7669 (408) 355-2200 FAX 355-2290 Reservations (408) 355-2201 www.parkhere.org



September 22, 2010

Ms. Ann Buell California State Coastal Conservancy 1330 Broadway, 13<sup>th</sup> Floor Oakland, CA 94612

Subject: San Francisco Bay Area Water Trail Plan Draft Revised Environmental Impact Report (DREIR), August 2010. SCH# 2007112080

Dear Ms. Buell,

The County of Santa Clara Parks and Recreation Department (County Parks) has reviewed the San Francisco Bay Area Water Trail Draft Revised Environmental Impact Report (DREIR) and submits the following comments. It is understood that the project will create a network of landing and launching sites around San Francisco Bay to provide non-motorized vessels access to water trail routes in the Bay and that participation in the Water Trail network would be on a voluntary basis. In addition, the project will include guidance on trailhead development, and management strategies that promote boater outreach and education. County Parks has participated in the development of the San Francisco Bay Area Water Trail Plan (Water Trail Plan) and supports this project

#### 2.3.2 Water Trail Sites

The Water Trail Plan identifies one Planned Launch Site under the jurisdiction of the County of Santa Clara. This Planned Launch Site is identified as a "Backbone Site" in the Water Trail Plan as "SC2, Alviso Marina managed by the County of Santa Clara." However, the site identification should be further clarified. The correct name of the site is Alviso Marina County Park, and the parkland is managed and operated by the County of Santa Clara Parks and Recreation Department (County Parks). Please correct all references to site SC2 in the DREIR and Water Trail Plan.

County Parks recently completed construction of a boat launch facility which includes a concrete launch ramp with two docks, one for non-motorized paddle boats and one for motorized boats. The facility also includes a parking lot for 26 boat trailers. It should be noted that, due to site constraints, space available for vessel preparation, etc...is limited to a small staging area adjacent to the boat launch ramp.

The need for a new boat launch was identified in the Alviso Marina County Park Master Plan,



SCPRD-1

approved by the County Board of Supervisors in 1997. The launch ramp is part of Phase II park improvements and was open to the public in June 2010. The launch ramp provides waterway access into Alviso slough; however, it should be noted that County Parks' jurisdiction does not extend into the waterways accessible from the boat launch.

Environmental impacts associated with the operation of a new launch ramp at Alviso County Park were identified in the Final EIR (October 10, 1997) for the Alviso Marina County Park Master Plan project and in the January 2009 Addendum to the EIR prepared for the boat launch project. The documents included mitigation measures and a mitigation monitoring and reporting program to ensure that impacts from implementation of the boat launch facility were less than significant. To mitigate impacts to wildlife and habitat, boaters accessing local waterways from Alviso Marina County Park are limited to the launch ramp. No launching, beaching, vessel preparation or dismantling will be allowed from any other place along the shoreline within the County Park. In addition, boaters are responsible for compliance with all County Park rules and regulations as well as those that may exist in regards to the waterways accessible through the boat launch ramp. These include Federal and State regulations pertaining to wildlife and habitat protection and boater safety. This information updates previous comments offered by County Parks to the Water Trail Plan.

Comments Regarding Potential Impacts and Mitigation Measures

The DREIR is comprehensive in its discussion of the regulatory setting, regional settings, and identification of potential significant regional and site impacts which may occur as a result of Water Trail Plan implementation. The DREIR also includes regional and site specific mitigation measures and states that "Potential regional impacts will be mitigated through activities undertaken by site owners and managers, and/or as part of the trailhead designation process. Potential site-specific impacts will be mitigated for each site individually" (page ES-4: Summary of Environmental Impacts and Mitigations).

While County Parks agrees that potential site-specific impacts should be mitigated for each site individually, it would not be reasonable for site owners/managers to be responsible for implementing regional mitigation measures outside of their jurisdiction, as their jurisdiction and/or authority may not extend beyond the individual site boundaries. For example, Mitigation Measure Rec M4C: Safety Signage: would require that signage at trailhead locations within four miles of areas open to hunting identify specific areas and dates when hunting occurs. While site managers/owners could include signage alerting water trail users of hunting in the area, it is the responsibility of the users to contact the appropriate regulatory agency such as US Fish and Wildlife Service, or California Department of Fish and Game, to find out where and when hunting occurs.

SCPRD-2

Comments on 3.3 Recreation

The DREIR includes a range of mitigation measures including guidance strategies to mitigate for impacts associated with increased recreational use at launch sites. Implementation of applicable mitigation measures, for impacts associated with increased recreational use of Alviso Marina County Park as a launch site in the Water Trail Plan should reduce impacts at the County Parks' site to less than significant.

SCPRD-3



3.14 Transportation, Circulation and Parking

The DREIR acknowledges that the implementation of the Water Trail plan could result in increases traffic to local streets and increases in parking needs at trailhead locations.

Since neither the increased level of use nor the associated traffic increases can be predicted at the current programmatic level of review, it should be noted that 2009 Addendum to the FEIR for Alviso Marina County Park Master Plan addressed traffic on local streets due to use of the boat launch facility. County Parks agrees that implementation of Mitigation Measure TPC-M1 would be undertaken for a traffic assessment prior to designation of Water Trail sites, which should reduce traffic related impacts to less than significant. County Parks request that the WT implementing agency coordinate with County Parks Planning Unit prior to undertaking traffic assessment in the area of Alviso Marina County Park. Please contact me prior to implementation of this proposed mitigation measure.

The DREIR acknowledges that impacts and mitigation measures associated with parking focuses primarily on Water Trail users and attempts to ensure that adequate parking is available for these users. This analysis is limited in scope and does not address other users to the site, as many of the Water Trail access sites are located within multi—use facilities such as parks and marinas. County Parks considered the recreational and aesthetic land uses including trail users, boaters and bird watchers in the analysis of environmental impacts associated with the operation of the new launch ramp at Alviso Marina County Park.

Thank you for the opportunity to review the Water Trail Draft Revised EIR. We would also appreciated notification of the Coastal Conservancy's certification of the Final EIR and approval of the Draft Water Trail Plan. If you have any questions regarding these comments, please contact me at (408) 355-2236 or by email at <a href="mailto:Antoinette.Romeo@prk.sccgov.org">Antoinette.Romeo@prk.sccgov.org</a>.

Sincerely,

Antoinette Romeo Park Planner

Cc: Jane Mark, Senior Planner Julie Mark, Acting Director EIR Tracking File



SCPRD-4





2950 PERALTA OAKS COURT PO. BOX 5381 OAKLAND CALIFORNIA 94605-\(\tilde{\O}\)381 T. | 888 EBPARKS | F. 510 569 4319 | TDD. 510 633 0460 | WWW.EBPARKS.ORG

September 15, 2010

Ms. Ann Buell California Coastal Conservancy 1330 Broadway, 13<sup>th</sup> Floor Oakland, CA 94612-2530 RECEIVED

SEP 2 0 2010

COASTAL CONSERVANCY OAKLAND, CALIF.

Subject: Comments on Revised DEIR for San Francisco Bay Water Trail Plan

Dear Ann,

Thank you for providing the East Bay Regional Park District ("District") with the Environmental Impact Report (EIR) for the San Francisco Bay Water Trail Plan (Plan). As you are aware, the District supported AB 1296 and has participated in development of the Plan.

Approximately 100 miles of the proposed Water Trail have been included on the District's 2007 Master Plan Map. This consists of 23 existing and planned regional parks along the East Bay Shoreline that could provide access to the Water Trail. These parks contain a number of existing and planned facilities that would improve access to the Water Trail, including parking areas, interpretive programs, regional trail connections, youth hostels and campgrounds.

The following are the District's comments on the Revised Draft EIR.

Page 2-11 identifies factors that will affect the growth of Non-Motorized Small Boat (NMSB) usage. There are other potential factors that would influence potential growth in NMSB use. These would include the following

- Increased costs and inconvenience of transportation, such as driving or flying, are influencing people's choices and promoting uses that are closer to home. Distance between water access points and place of residence are affecting us e patterns. This shift will result in shorter vehicle trips and the resultant air quality benefits from reduced vehicle emissions.
- Demographics in the Bay Area are changing rapidly and some historic uses are decreasing (such as hunting and large motorized boating) while other uses are increasing (such as kayaking and family-oriented activities). Some of these activities are "water-dependent" whereas others occur over much larger geographic areas. It's unclear how these changes will affect WT uses, but it should be identified in the EiR as a potential future consideration.
- Changes in technology continue to influence certain recreational uses. For example, the
  development of kiteboard technology appears to have resulted in a slowing in
  windsurfing growth because kiteboarding is less expensive and more portable. This

EBRPD-1

trend is likely to continue and the WT Plan and EIR should establish mitigation performance measures that might be applicable for such future uses. These could include compatibility with existing uses and a process for addressing potential new or increased effects not considered in the EIR.

Pages 2-18 and 2-19 discuss requirements for sailing, including windsurfers and kiteboarders. The discussion states that sixteen sites provide suitable wind and launch conditions for board sailing. The EIR should identify those sites and provide information on the specific needs of these two use types. For example, how much beach area does a kiteboarder need to lay out the kite for launching? Such information is key to consideration of the suitability of water access sites for such uses.

EBRPD-2

Page 2-24 – Table 2.3.2 - Water Trail Backbone Sites - There are still some inaccuracies regarding specific sites. Table 2.3.2 does not reflect the requested changes the District identified in its comments on the 2008 Draft EIR. The requested modifications are provided for inclusion in the 2010 Revised Draft EIR.

- 1. The following District sites are listed as HOS sites and should retain this status:
  - Robert Crown Memorial State Beach (Existing Launch Sand Beach)
  - Carquinez Strait Regional Shoreline (Eckley Pier) (Existing Launch Pebble Beach)
  - Keller's Beach (Existing Launch Sand Beach)
  - Ferry Point (Existing Launch Sand Beach)
- Point Isabel Regional Shoreline (Existing Launch Beach) This launch site needs
  some improvements as it has a lot of rock and debris hazards that could be removed to
  make it safer and easier to launch. This site should be reclassified as an existing nonHOS site.
- 3. Martin Luther King Regional Shoreline Doolittle Drive; Airport Channel (Existing Launch Ramp) There are actually three launches in the Airport Channel: a.) kayak launch at the Shoreline Center at the north end of the park; b.) an informal boat launch at the southern parking area; and c.) an old informal pullout on Doolittle Drive. The kayak launch at the Shoreline Center at the north end of the park and the formal boat launch at the southern parking area should be reclassified as HOS sites. The informal pullout on Doolittle Drive should continue to be classified as an existing non-HOS site.
- Martin Luther King Regional Shoreline Elmhurst Creek (Existing Launch Creek Bank). It should be retained as an existing non-HOS site. It's an informal, unimproved site that may require future improvements.
- The following District (Trail Plan -TP) projects have previously undergone CEQA
  analysis as part of another planning effort and/or are currently under construction:
  - Eastshore State Park Albany Beach (Existing Launch Sand Beach) This site has already been covered under the Eastshore State Park General Plan EIR. No additional CEQA documentation should be required.

EBRPD-3

- Tidewater Boathouse (Planned Float Launch) CEQA and permits have been completed for this project and construction is nearly complete.
- Point Pinole (Destination) This is an existing small beach launch located just to the southeast of the fishing pier. There is a recently completed group camp site that can be used by boaters.
- Bay Point Regional Shoreline (Planned Launch type unknown) CEQA has been completed for carry-in boat access to the J-shaped channel as part of the Bay Point Regional Shoreline Land Use Plan.
- Coyote Hills (Planned Destination type unknown) This is planned to be a pullout at
  the end of the Alameda Creek Trail. It should be retained as District (Trail Plan -TP) as
  this site would need to undergo individual project-level environmental review prior to
  its designation as part of the Water Trail, but would be able to tier off this
  programmatic EIR.
- 7. Hayward's Landing [Eden Landing] (Planned Destination- type unknown) This site is to be managed by the Department of Fish and Game and not the District.

Table 2.3.3-1 identifies strategies for WT implementation. Strategy Number 10 on accessibility should note that not all sites, such as beaches and rocky shorelines, can be made fully accessible to people with disabilities; whereas, docks, piers and other structures can usually be made accessible. The strategy might note "where feasible" in its description.

EBRPD-4

Page 2-48 describes "other recreationists" and notes that their "priorities" are considered. This may not be feasible or appropriate in all cases. Perhaps "interests" should be used instead.

EBRPD-5

Page 2-51, Figure 2.4.3-1 – Water Trail Plan Trailhead Designation Process for HOS and Non-HOS Sites – The figure implies that permits could be required to simply sign an existing site as a Water Trail (WT) site. It is difficult to understand why permit(s) would be required for small informational and directional signs at existing HOS sites. Such actions are Categorically Exempt from CEQA under CEQA Guidelines Sections 15061(b) (3), 15304, 15311(a) and 15323. This needs to be clarified or management agencies may shy away from designating WT sites to avoid lengthy and costly permitting procedures.

EBRPD-6

Page 3-32 Significance Criteria – We do not believe that appropriate standards have been identified for determining the potential significance of effects. The criteria are too broad and need to be more specific, including consideration of the follows comments

An "adverse physical effect on the environment" suggests that any adverse effect, no
matter how small, would be considered significant. This effectively places the threshold
of significance at zero. CEQA guidelines provide well established guidance on
establishing significance thresholds that should be considered in this document.

EBRPD-7

As a blanket statement, precluding existing recreational activities should not be
considered the threshold for significance. Prohibition, elimination, restriction or
reduction of existing activities that are illegal, dangerous or inconsistent with designated
land uses or policies, or that have a significant adverse effect on the environment should

EBRPD-8

not be considered a significant effect. (This rationale would also apply to Impact LUP-I on page 3-192.)

Page 3-88, Impact Bio-I – This discussion should consider on a case-by-case basis the potential effects of WT use as a potential vector for non-native plants. For species that are disbursed by tidal waters, it appears that any added increment by NMSB would be insignificant because these species may already occupy these locations and/or there are abundant water-borne sources for such species in the absence of NMSB usage. This would be the case for non-native cordgrass species and perennial pepperweed that have had the greatest impacts to shoreline wetland and upland habitats, respectively.

EBRPD-9

Another measure for preventing and controlling non-native plant invasion would be for WT managers to participate in the San Francisco Bay Area "Early Detection Network" for invasive species. Reporting and control efforts could be included through this program. Similar programs are already in place for Quagga Mussel control in freshwater reservoirs and have been very effective in preventing the spread of this species.

EBRPD-10

Page 3-123, Mitigation Measure Bio-M5 – The measure relies upon the 2009 Avocet Research Associates study for determining that a buffer of 250 meters should be used between rafting waterfowl and NMSB usage. The study took place at one location at the Berkeley North Basin at Eastshore State Park and may not be applicable to other areas of the Bay with different circumstances.

EBRPD-11

The Avocet study does not contain analysis of how disturbance may actually affect rafting birds, such a disruption in breeding behavior, foraging, predation, habituation to disturbance, etc. Without such studies, application of a standard buffer cannot be substantiated. Buffers should be determined on a case-by-case basis where a number of factors are considered, including potentially affected bird species, seasonality of use, weather, tides, currents, shoreline topography and existing disturbances. In some cases NMSB usage may have no adverse effect on rafting birds and in other instances buffers and potential closures may be warranted.

EBRPD-12

Page 3-180, Impact Hyd-I and Hyd-2 – The EIR provides statements about potential construction and trail head runoff resulting in potentially significant effects to Bay water quality. There is insufficient information provided that demonstrates that such impacts would rise to the level of a "substantial additional source of polluted runoff" that would result in a potentially significant effect. Employment of Best Management Practices (BMP's) has become a standard provision of virtually every project that may discharge pollutants into water ways. Furthermore, improvements to existing unmanaged WT access sites would reduce the baseline of runoff pollutants and may result in a net improvement in water quality.

- Q- 14.

Page 3-182, Impact Hyd-5 – The discussion of sea level rise appears to focus on the impact of the environment on the project. This approach is inconsistent with CEQA guidelines that require a project to evaluate the impacts of the project on the environment. No doubt sea level rise will and should affect project design; however, the rate and effects of sea level rise remain speculative. Potential effects should instead be evaluated based upon reasonably foreseeable events within the intended service life of a project. For example, a floating boat

EBRPD-13

dock may only last twenty years and require replacement due to the normal wear and tear of a marine environment. This would likely occur sooner than current estimates of sea level rise would make such a structure unusable.

Page 5-9, Biological Resources, Birds – Perhaps this discussion should be brought forward to a more prominent section of the EIR. The potential beneficial effects of implementing a coordinated WT plan clearly out weigh the potential long-term adverse effects to birds from improperly managed public access. As unplanned and unmanaged access to the Bay increases the adverse effects will become more apparent. The WT program provides clear and coordinated management strategies that are essential to the long-term management of Bay resources and the sustainability of NMSB uses.

EBRPD-14

Thank you for the opportunity to comment on this important document. Please call me at (510) 544-2622 should you have any questions regarding our letter.

Sincerely,

**Brad Olson** 

Environmental Programs Manager



of the San Francisco Bay Region

Mandated by the California Oil Spill Prevention and Response Act of 1990

September 16, 2010

Ann Buell, Project Manager State Coastal Conservancy 1330 Broadway, 13<sup>th</sup> Floor Oakland, CA 94612

Subject: Draft EIR: San Francisco Bay Area Water Trail Plan

Dear Ms. Buell:

The Harbor Safety Committee of the San Francisco Bay Region is pleased to comment on the navigational safety aspects of the proposed Bay Water Trail Plan. The California Legislature established the Harbor Safety Committee (HSC) almost twenty years ago to promote harbor safety by making recommendations to prevent maritime accidents in the Bay Region. The HSC has followed the development of the Water Trail Plan to keep all mariners on Bay waters safe.

We are pleased that the revised Draft Environmental Impact Report added the Section 3.4 Navigational Safety. However, the Executive Summary does not emphasize the dynamics and challenges of the Bay, especially to small non-motorized boats such as kayaks and canoes. We recommend including a Project Setting:

"The San Francisco Bay system is the largest estuary on the Pacific Coasts of North and South America. Waters from the two major river systems and the Bay flow through the Golden Gate, which is less than a mile wide at its narrowest point. Because of the volume of water moving through the narrow opening on a daily basis, tides and strong currents occur in the Bay. Because of the many microclimates of the San Francisco Bay Area, mariners who navigate through the San Francisco Bay must be aware of how weather conditions can change significantly over short distances and over short periods of time. Mariners must also be aware of the unique weather conditions and weather hazards that are most prevalent during each season." (Harbor Safety Plan 2010)

HSC-1



of the San Francisco Bay Region

Mandated by the California Oil Spill Prevention and Response Act of 1990

The stated goal of the Bay Water Trail Plan project is to provide over 100 access sites around the Bay Area for single and multiple-day trips, but to do this in a safe manner. In order to achieve this goal, the Committee believes the Plan must emphasize an education program that includes:

- 1. Navigating the Bay (pg. 3-38) is inaccurate as fog occurs during summer months. Also strong winds should be acknowledged as "Small craft advisory conditions (20 to 25 knots) occur nearly every day in summer through the central and northern San Francisco Bay and eastward through the Carquinez Strait." (Harbor Safety Plan 2010) There is no mention that wakes from fast ferries or large vessels can potentially capsize small craft in close proximity. In general the Plan should stress that the 548 square mile Bay is a much more complex, dynamic and varied than described.
- 2. Near-accidents involving non-motorized boats are reported to the HSC by the Coast Guard (pg. 3-41). A near accident was reported as follows: October 29, 2009 A tug pushing a barge while transiting to Redwood City altered course to avoid colliding with a group of kayakers and allided with a fixed light which had to be reconstructed.
- 3. Ferry Routes (pg. 3-43) should be updated to include adopted ferry routes by the regular fast commute ferries, which are now on NOAA charts (Harbor Safety Plan 2010 shows routes). The existing routes, adopted last year, are separate from WETA proposed routes and should be used to alert recreational boaters to stay clear. Regularly scheduled ferries account for 60 percent of all vessel traffic on the Bay, which travel about twice the speed of cargo ships. The 2010 Harbor Safety Plan cites a higher number of transits: 240 per day.
- 4. The description of the Harbor Safety Committee (pg. 3-47) should state that the Prevention Through People Work Group (not subcommittee) has produced seven brochures and a video targeted to safe boating for recreational boaters. This includes a 'Kayakers, Be Alert!' safety sticker, which has been replicated in other U.S. harbors.
- 5. Mitigation Measures (pgs. 3-49 51). Non-motorized boats such a kayaks and canoes are the smallest vessels on the Bay and cannot be seen from the bridge of a fast ferry or tanker or container ship when in transit and are not picked up by radar. Ships and tugboats have blind spots ahead of them that can extend hundreds of feet. The navigational safety impact is primarily on the small

HSC-2

HSC-3

HSC-4

HSC-5

HSC-6



of the San Francisco Bay Region

Mandated by the California Oil Spill Prevention and Response Act of 1990

boater, as the larger vessel, traveling at a much higher speed, will not be able to make a course change if the smaller boat is even seen. Careful site planning might rank different sites as to experience level and challenges, e.g., high velocity currents, proximity to shipping and ferry lanes.

6. Boater Education (Strategy 26). As the Plan states, the Water Trail would have potentially significant impacts on navigational safety unless educational outreach and signage reduces safety risks. It is essential that a vigorous educational program include the points made above, which are broader than outlined in the Plan. Beyond knowing to wear a Personal Flotation Device (PDF), paddle boaters must read tide tables and charts, be alert to small craft advisories for wind conditions, and possibly carry a marine radio in case of emergency.

HSC-7

In conclusion, the Harbor Safety Committee offers its experience in navigational safety as a resource for education. In particular, the Prevention Through People Work Group has produced outstanding brochures with grants from California Boating and Waterways. Please contact me should you have any questions.

Sincerely,

Joan L. Lundstrom, Chair

Harbor Safety Committee of the

San Francisco Bay Region

cc Harbor Safety Committee

Captain Cynthia Stowe, Captain of the Port, Sector San Francisco

RECEIVED

SEP 2 1 2010

COASTAL CONSERVANCY OAKLAND CALIF.



### CITY OF HERCULES

111 CIVIC DRIVE, HERCULES, CA 94547 PHONE: 510 • 799 • 8200

September 14, 2010

Ms. Ann C. Buell, Project Manager Coastal Conservancy 1330 Broadway, Suite 1300 Oakland, CA 94612

Re: Comments on Draft Revised Programmatic EIR for the San Francisco Bay Area Water Trail Plan

Dear Ms. Buell:

Thank you for the opportunity to comment on the Draft Revised Programmatic Environmental Impact Report for the San Francisco Bay Area Water Trail Plan. On July 24, 2008 I provided comments (and in 2007 our Assistant Planner provided comments) and justification for being added as a Launch Site. The following comments from the City of Hercules are submitted again for your review and consideration:

- The City of Hercules is not currently designated as part of the network of 112 future trailhead
  destinations. We feel this is an oversight and would like to be included as one of the "Backbone
  Trailhead Sites." Hercules is located between two jurisdictions which have Planned Launch Sites the
  City of Pinole and the unincorporated area of Rodeo.
  - The City of Hercules has been working with the San Francisco Bay Conservation Development Commission, the Water Emergency Transportation Authority and many other stakeholders on the Intermodal Transit Center project which includes bus, train, and ferry transit at one location adjacent to San Pablo Bay and Hercules Point. The Intermodal Transit Center is at the heart of the 40 acre waterfront Transit Oriented Development and has been designated as a *Priority Development Area* by the Association of Bay Area Governments. The City of Hercules believes that the Hercules Point area should also be designated as a "Planned Launch and Destination Site" on the Carquinez Strait map. The City is planning a pedestrian overcrossing over the existing railroad tracks to Hercules Point with primarily passive recreational uses. The water trail site would be a perfect amenity to this area.
- 2. For the past three years, the City has been working cooperatively with the current owner of the Hercules Point site, and has drafted conceptual plans for a recreationally-based, regional park with intermodal transit linkages and direct connection to the San Francisco Bay Trail. The Intermodal Transit Center project includes the completion of a two-mile gap in the Bay Trail. A protected, sheltered cove exists for small, self-propelled watercraft such as canoes and kayaks. The north side of Hercules Point is sheltered from wind, waves, and tidal influences, providing a protected area for personal watercraft.

COH-1

Ms. Ann C. Buell

September 14, 2010 - Page 2

On behalf of the City of Hercules, we appreciate this opportunity to provide comments and are hopeful that the City of Hercules can be included as part of the network of trailhead destinations. Thank you.

Sincerely,

Lisa Hammon, Assistant City Manager

cc: Nelson Oliva, City Manager

Dennis Tagashira, Planning Director

Erwin Blancaflor, Public Works Director

RECEIVED

SEP 15 2010 COASTAL CONSERVANCY OAKLAND, CALIF.

### **BAY ACCESS**

### DEDICATED TO CREATING A WATER TRAIL IN San Francisco Bay

September 21, 2010

To: Ann Buell, Project Manager Coastal Conservancy 1330 Broadway, Suite 1300 Oakland, CA 94612

From: Penny Wells, President Bay Access, Inc. 229 Courtright Rd. San Rafael, CA 94901

Subject: Comments on the San Francisco Bay Area Water Trail Plan Draft Revised EIR

### INTRODUCTION

As you know, our organization is committed to protecting and enhancing public access to the water of San Francisco Bay and we appreciate the opportunity to comment on the revised Draft Environmental Impact Report for the Water Trail. The DEIR is a significant improvement over the previous draft, and gets many things right. It is, most important, imbued with analysis that recognizes that both recreational boating and population growth are occurring in the Bay area, absent a Bay Water Trail (page 2-35). It also evinces an understanding that designating existing sites as trail heads is the only way to establish educational programs at those existing sites and thereby hope to reduce any impacts that are already extant.

The EIR correctly notes in Chapter 5 that the effects of the "no project" alternative are greater than the effects of the project, and that an enhanced Water Trail Plan alternative would be environmentally superior to the current alternative which has a more limited number of sites. However, the Conservancy does not follow through by making the Water Trail more feasible. Instead, the extensive list of pre-requisites, required education programs, and seemingly endless planning will discourage participation.

THE CEQA ANALYSIS IS FLAWED AND FAILS TO PROVIDE A FAIR ASSESSMENT OF POTENTIAL INCREASES IN USE RESULTING FROM DESIGNATION OF THE WATER TRAIL

BAI-1

A proper CEQA analysis would begin by placing the existing network of over 130 sites, and the 95 existing sites proposed as "backbone" Water Trail sites, in the baseline of physical conditions. The baseline is a term of art established for describing the environmental setting in Section 15125 of the CEQA Guidelines. That existing network of sites includes a substantial number of sites where NMSB skills are taught, and a large number of sites with significant established uses and ample parking to accommodate increased uses associated with population growth, increased disposable income, and promotion of boating. The CEQA Guidelines call for establishment of a baseline of the existing physical environment, which includes these launches and ongoing activities. Section 15301 of those guidelines exempts "minor alteration of existing ... facilities ... involving negligible or no expansion of use beyond that existing..." Thus, the alterations contemplated for the backbone sites could all occur under the auspices of local government without subsequent CEQA review because they are simply utilization of existing facilities that would not, under normal circumstances, be expected to have significant impacts. If the baseline had been properly established, it would be clear that there is no nexus to require many of the mitigation measures proposed in the EIR, as those measures are intended to regulate existing activities.

BAI-3

The next step in proper CEQA analysis would be to identify the impacts of the project on the baseline, or existing environment. While the EIR makes an attempt to do so, the effort is so exaggerated as to fail to meet the substantial evidence test established in Section 15064.7 of the Guidelines. The EIR properly examines the survey done by the Department of Boating and Waterways, and selects the medium growth baseline of 3.84% annual compounded growth in activity, absent the Water Trail (page 2-11). However, in the discussion on pages 3-121 through 3-123, the Conservancy assumes an independent increase of 5% in excursions associated with government ratification of a Trail Head as part of the Water Trail in order to identify a "potentially significant but mitigable impact." The EIR acknowledges that this assumption"...is an exaggeration of the expected increase in NMSB use of the Bay resulting from the WT Plan," but then relies on this assumption uncritically to develop a list of mitigation measures. It seems a strange conceit to assume that the act of a government agency in endorsing the Water Trail or any of the existing sites would have a greater effect than population growth or the promotional activities of user groups and businesses. The lack of rigor in selecting 5% means that the results are highly speculative and fall short of the definition of impacts provided under Section 15145 of the Guidelines. We will return to that point in the context of rafting birds, and in particular, the reasonableness of a 5% assumption for winter NMSB trips.

BAI-4

The EIR identifies 33 different groups that support non-motorized boating (pp 3-20, 3-21). This long list, while incomplete, illustrates the unreasonableness of the 5% assumption. The Conservancy did not evaluate the ongoing marketing efforts of these user groups in arriving at the 5% assumption, or make any effort to compare the benefits of State sanction of a Water Trail site to the efforts of the various user groups and businesses in encouraging increased use. There is substantial evidence that NMSB use is increasing and adding sites without reference to the proposed Water Trail. During the

five years since the Water Trail Act was passed, there has been substantial growth in kite boarding and in the virtually new sport of stand up paddling.

The existing network of sites is well publicized on a number of web sites used by NMSB's, including the Bay Access site, the BASK site, and both iwindsurf.com and ikitesurf.com, which cater to sailboards. The latter two sites provide users with current wind conditions and maps to the most popular and heavily used sites. Scheduling and promotion of kayak trips occurs on the BASK site, and all existing sites can be seen on the Bay Access site. Visitors to San Francisco Bay frequently post questions on the forums in iwindsurf.com and with BASK members to ask about where to sail or kayak, how to get to the sites, and what skill level is necessary to sail or kayak the various launch sites. All of the user groups schedule training sessions, hold open houses, and many also hold races. Nearly all of the yacht clubs in the Bay have established juniors programs to introduce young people to sailing; some of those programs include windsurfing and kayaking. Adoption of a Water Trail is not needed for any of these promotional activities, and it is hard to imagine any circumstances under which designating a particular Trail Head might have an impact on end use comparable to the outreach efforts that already go on at existing facilities.

Any book publisher or organization could issue a map and call it the Bay Water Trail without government sanction. Outfitters give kayak lessons at multiple sites around the Bay, and market their lessons as a part of their business promotion. Since most of the sites discussed in the EIR already exist, it is difficult to conceive of any amenities that might significantly increase use. The South Basin in Berkeley marina is heavily used for kayak lessons and kayaking skills training yet lacks both a beach and a convenient bathroom. The lack of such amenities does not discourage use, and the Conservancy has not provided substantial evidence that the lack of any amenities that might be provided as part of Trail Head designation currently discourages or limit use at any of the sites.

### RAFTING BIRDS

It is in the discussion of potential impacts on rafting birds that the EIR is most seriously flawed, and written as an advocacy document to justify regulating existing NMSB activity rather than as a fair analysis of the impacts of trail designation on rafting birds. This is accomplished by starting with an erroneous interpretation of existing waterbird census data, and then using a series of overly conservative assumptions. Important data and details about the nature of research on disturbance, the geographic location of rafting bird populations, and current restoration efforts are all either omitted or given limited attention; these mistakes and omissions undermine both the utility and the credibility of the document.

The most serious problem with the EIR is in its mis-representation of the current status of waterbirds that might potentially be affected by increased NMSB use. The erroneous reasoning begins with the reasoning that there has been a significant decline in the number of waterbirds, and implicitly that further contributions to that decline would constitute significant impacts under CEQA, and that habitat for these guilds is sensitive

habitat within the meaning of the Water Trail Act. The latter conclusion is specifically drawn on page 3-109 where it is stated that "average waterfowl abundance ... has declined from 425,000 to 182,800 during the most recent period. (emphasis added) This statement is a gross distortion of the data, as can readily be seen by examining Table 3.8.2-1 on page 3-96. Data for the most recent 17 years averages 192,000—approximately the count for 2007. The decline that occurred happened between 1970 and 1990, and obviously has not continued during the most recent period. The fact that there is substantial inter-annual variation in the waterbird population does not justify such a callous disregard for the statistical properties of the data, or allow such a broad conclusion to be drawn.

This error is then used, without rigorous analysis, to posit that (Page 3-119):

It is reasonable to infer that the cumulative impacts of numerous or serial disturbances may have deleterious effects on waterbird populations within a given area; such frequent disturbance may have deleterious effects on waterbird populations within a given area; such frequent disturbance may adversely affect the health or productivity of birds that remain in an area where disturbance results in substantial impacts to energy budgets, or may cause birds to leave an area altogether to seek out areas where their energy budgets can be balanced.

This then becomes a conclusion with the statement on page 3-120 that "the WT would recommend against funding site improvements that **could** result in added disturbance to waterbirds if no feasible mitigation measures are identified to minimize the potential incremental disturbance..." (emphasis added) This is a conclusion reached without regard to the significance thresholds used in the document, or the necessary analysis linking the threshold to **possible** increased disturbance. Moreover, the entire conclusion rests on the erroneous statement that waterbirds are declining, when the data simply does not support that conclusion.

Proper analysis under CEQA would start with the impact threshold used in the document. That threshold is found on page 3-116, and establishes that a significant impact is one that would, in relevant part, "Disturb...rafting, or foraging such that the project ... contributes substantially to a substantial decline in regional (i.e. San Francisco Bay) waterbird species diversity." (emphasis added) Clearly, a line of reasoning that erroneously begins by mis-interpreting census data to conclude that a substantial decline is currently occurring is seriously flawed.

Once the erroneous conclusion about continuing decline is corrected, the EIR needs to consider the geographic nature of the population of waterbirds, and place any potential for increased disturbance within that context. The EIR does contain substantial information about the more valuable waterbird habitat and maps of maximum counts of rafting birds for two of the species, scoters and canvasbacks, are provided in Figure 3.8.2-1. It can readily be seen that the concentration of these rafting areas are mostly in the northwestern part of San Pablo Bay and the South Bay. Only 4 of the HOS sites are

within these areas—Bull Head Flat at China Camp State Park, Black Point Boat Launch, Palo Alto Baylands Launching Ramp, and the new public launch at Alviso. All are existing sites.

To establish the context for potential disturbance, the Bay has an area of over 400,000 acres, with about 200,000 rafting ducks. While rafting ducks may prefer the more remote and shallow areas of the Bay, the EIR makes little attempt to identify which areas might be particularly valuable, and the evidence that is provided shows most of that area well removed from the existing launch sites. Thus, the population of rafting birds is spread around at least 172,000 shallow acres of the Bay, plus the marshes and salt ponds that also provide habitat for rafting birds. The EIR makes no effort to quantify the value of those latter habitats, beyond the statement on page 3-95 that indicates that 45% of the waterfowl were present on salt ponds, and that "Canvasback, ruddy duck, and bufflehead occur in much higher densities in diked Baylands and salt ponds than on open Bay in winter and spring."

A sense of the scale of NMSB impacts can be realized by overlaying onto this resource of more than 172,000 acres the footprint of a 250 meter disturbance used in the document. If that distance is used to establish a footprint for the assumed additional disturbance associated with a kayak, it constitutes an area of 47 acres—or .015% of the surface area of the Bay. It is impossible to imagine a circumstance under which even hundreds of such disturbances could contribute to a substantial decline in regional abundance of waterfowl, particularly where the most valuable rafting areas are remote from launching sites, and the diked areas of the bay which support nearly half of the waterfowl, are unaffected by the proposed action.

A number of different assumptions are used in the document which further exaggerates the impact of NMSB use and Water Trail sanction by the Conservancy. We discussed the 5% assumption for the impact of Trail sanction earlier, but the document uses an exaggerated buffer of 250 meters, and fails to distinguish between constant and intermittent disturbance, particularly in the winter when the potential for impact is greatest.

The recommended buffer used to evaluate impacts (250 meters, page 3-121) goes well beyond a conservative approach. It is drawn from the "North Basin Waterbird Study", which notes that the scaup are a favored hunted bird, and thus are expected to be particularly wary of humans. The data for disturbance was collected during the winter hunting season, using scaup as the most sensitive species, and than applied to all guilds. The recommended buffer is greater than human vision, and includes an area of expected disturbance as well as a margin of safety. It is impossible to see any duck at a distance of 250 meters. Such a distance is well beyond the distance that birds fly when approached by kayaks—often they only move away by swimming, and rarely fly over 100 feet further away, where they resume feeding.

Next, the EIR made little effort to distinguish between intermittent and constant disturbance, despite the importance of that distinction in the sources cited, and the

location of most rafting areas well away from launch sites. The EIR does acknowledge that the winter periods of rafting are "...the periods least likely to be favored by NMSB users." But no effort was made to distinguish between summer and winter use in assessing the potential for impact, and all impacts were treated as if they were frequent.

Careful examination of the citations reveals the potential for exaggerating impacts if this distinction between intermittent and constant disturbance is not made. First, the Burger citation, "The effect of human activities on birds at a coastal Bay" involves a much higher degree of disturbance. This involves a site on Jamaica Bay where humans were present every day of the study, and 17% of the time. Disturbance resulted from recreational activity on the shore, not from kayaks. Of note, Burger indicated that frequent disturbances, close proximity and rapid approaches were key factors. Occasional winter kayaking differs substantially. Second, the "North Basin Waterbird Study" includes information that substantially tempers the conclusions presented in the EIR. It notes that the scaup are a favored hunted bird, and thus are expected to be particularly wary of humans. Equally important are the following two statements:

Rafting waterbirds tend to congregate in greater numbers within North Basin during wind and storm events, a weather variable that discourages use of the site by recreational watercraft users. These complementary circumstances will help to minimize disturbance of waterbirds.

...intermittent disturbance is likely more tolerable than constant disturbance...

While the EIR is intended to provide an assessment of the potential impact of the Water Trail on rafting birds, the background suggests that other habitat is also important. The discussion on page 3-95 indicates that 45% of the waterfowl were present on salt ponds, and the Conservancy is actively involved in restoring habitat in the South Bay Salt Ponds. The document does not discuss in any detail habitat restoration efforts, including dramatic changes for salt ponds in both North and South bay. According to the Save the Bay website, there are 32,000 acres of diked Baylands that have been acquired and are in the process of restoration. The restoration plans for Cullinan Ranch, recently approved, make it clear that it would provide habitat benefits for waterbirds—even with a kayak launching facility. It is clear that modification of the habitat for 45% of the species in question might be more significant than occasional winter time disturbance.

# A THOROUGH CONCEPTUAL UNDERSTANDING OF THE SIZE OF THE BAY AND THE NATURE OF ACTIVITIES IS MISSING

The overall pattern of exaggeration seems to stem from both a misunderstanding of the nature of NMSB activities in relationship to the scale of the Bay, and a desire to affect modifications to existing activities. The area of the Bay, excluding Suisun Bay and delta areas that also provide substantial habitat, is over 500 square miles. Depending on the scale of "buffer" used, the impact of a single kayak is a tiny part of that area. If the very conservative estimate of 250 meters is used, the footprint of disturbance in all directions

for 192,000 birds is less than 48 acres, or about 0.025% of the shallow water area of the Bay.

The nature of NMSB activities is only partially understood by the EIR authors. Windsurfing, kiting, and kayaking are all fairly rigorous activities. This rigor creates categories of users, and thus different levels of impact and intensity of site use. At teaching sites (Berkeley Marina, Schoonmaker Beach in Sausalito, Coyote Point Beach, Jack London Square, Crown Beach in Alameda and Corte Madera Creek in Marin) organizations and outfitters may give classes to hundreds of people over the course of the summer. These new users tend to stay close to the launch site, and are often supported by a chase boat. Thus, the footprint of such teaching activities may be quite intense but localized as new users are simply not able to travel substantial distances. Only a small percentage—1 to 5% of those who take lessons—go on to become regular users. The pattern of such regular use can, and often is dramatically different. Experienced windsurfers and kayakers may travel 10 or more miles on the Bay, users that tour the Bay become less dense the further from the launch site the user goes.

## TRAILHEAD DESIGNATION PROCESS IS UNWIELDY AND LACKS TRANSPARENCY

It is frustrating to NMSB users that five years after the State Legislature declared that:

Water-oriented recreational uses of the San Francisco Bay ... are of great benefit to the public welfare...

and established policies of

...protecting endangered and threatened species, and species of special concern...

and encouraged the Conservancy to undertake projects during the period when the plan is being prepared, that we find ourselves with another draft EIR that doesn't permit actual designation of any of the existing sites. In the case of many of the existing sites, it seems to require an extensive and expensive further planning process, requiring "much more detailed Trailhead Plans...with site-specific CEQA review." That process is to be managed by a Project Management Team (PMT), and is to include review "by the Advisory Committee and other experts as needed". An undetermined set of mitigation measures may be required. This is the process for an existing site that should properly be considered part of the baseline! Any subsequent review of existing sites should be limited to the question of whether or not unusual circumstances might result in significant impacts. Any system that establishes priorities or restrictions for funding should be subject to the final control of the Conservancy Board, not to a group of staff from various agencies without accountability to the Board.

In sharp contrast to this proposed and cumbersome process, a continuance of the existing ad hoc process (e.g. the no project alternative) would allow modifications to any of the existing launch sites, funded by either the Department of Boating and Waterways, or local governments, with minimal paperwork. All such modifications fall under umbrella of Section 15301 of the CEQA Guidelines that exempts "minor alterations of existing public or private ... facilities ... involving negligible or no expansion of use..." The scope of exemptions to CEQA includes not merely modification, but replacement (Section 15302) and minor additions (15301(e)). Given the option of proceeding with funding from the same source and minimal paperwork, we cannot imagine any local government that has serious budget problems to pursue preparation of a Trailhead Plan under the scheme outlined.

THE EIR NEEDS TO CONSISTENTLY USE THE SIGNIFICANCE CRITERIA On page 3-91, mitigation measure BIO-3 would mandate that trailhead owners "track the use patterns...and if there is a notable increase in use...conduct boat surveys to detect trampling " This standard is vague, and probably unenforceable, and could lead to unnecessary expenses. It is also not clearly related to the significance standard selected. It didn't require boat surveys to detect the impacts. If this mitigation measure is ultimately adopted, a better defined threshold for monitoring should be established.

BAI-8

# TO MOVE THE WATER TRAIL PROJECT FORWARD WE RECOMMEND THE FOLLOWING:

1. Expand and adopt the concept of the enhanced water trail plan as the environmentally superior alternative. The draft EIR finds that the enhanced water trail alternative would be environmentally superior because it would include environmental and safety education programs that would be applicable at more sites. We agree.

BAI-9

- 2. Recognize and cite positive aspects of the Water Trail project. Positive aspects include, but are not limited to:
  - a. Signage and educational materials that promote boater safety and environmental responsibility at sites.
  - b. Funding that becomes available for bathrooms will keep raw sewage out of the bay.
  - c. Convenient, publicized ramps and docks will keep boaters from creating trails through sensitive habitat.
  - d. Promotion of on-site storage will decrease automobile use along the shoreline.
  - e. Stewardship; Water Trails nationwide all promote habitat protection and the principles of Leave No Trace.
  - f. Funding that becomes available for on-site boat cleaning facilities will prevent spread of noxious aquatic weeds.

When the positive aspects are considered any exclusion of sites or delay in designation becomes a negative environmental impact.

BAI-11

 Streamline the process for the High Opportunity Sites designated in the Plan. It has already been determined by the Stakeholders Group and designated in the Plan that these sites require only signage.

BAI-12

As an example, both Point Emery (Ashby Beach) and Albany Beach are currently used kite board sites within the East Shore State Park. The Park Plan, which included CEQA review, designates this use. The program and EIR should be revised to make it easy for the Regional Park District to add Water Trail signs, or bathrooms, without automatically triggering a detailed "Trail Head Document", and multiple rounds of review.

4 Limit the subsequent review of all existing sites, not merely the HOS sites. Currently the CEQA Guidelines allow minor alterations to those sites unless "there is a reasonable possibility that the activity will have a significant effect on the environment due to unusual circumstances." While this exception might allow some further scrutiny, the very language of unusual circumstances establishes that limitations are rare. Under that direction, the idea of a still-developing checklist for all sites (Appendix E), including HOS's, after five years of planning and discussion, is patently unreasonable.

BAI-13

5. Eliminate the requirement for having a comprehensive education plan completed BEFORE designating ANY sites. On page 2-40 it states that before trailhead designation begins there will be a "review and synthesis" of both system-wide and site specific education efforts of clubs (over 50), businesses, associations, related groups and other water trails currently providing boater education. Following this review a report would be issued with recommendations for expansion, modification and/or co-ordination of education programs. Please note: this process could take several years and is supposed to be completed BEFORE designation of the trailheads begins! This is an unacceptable delay (e.g. a negative impact). There is no mandate of any kind that requires that a comprehensive education plan or program be in place before any sites are designated for the Water Trail. Since most sites already exist and are in use, there is no reason that an education plan cannot be developed concurrently with Water Trail designation activities.

BAI-14

6. Delete the suggestion of a 250 meter buffer around floating birds as necessary to prevent significant impact. It is impossible for anyone sitting at water level to see a bird that is also on the water nearly three football fields away. Remember, many of the birds in question are actively hunted on the Bay and in the refuges during the winter.

BAI-15

7. Re-evaluate the numerous possible biological impacts to determine and include ONLY those expected due to the <u>incremental</u> increased use caused by Water Trail designation.

BAI-16

8. Include the incentives (page 2-3) that would encourage private entities, cities, counties and other agencies to agree to go through this highly complex process, in consolidated

form, in the Executive Summary. This is as far as most people ever read. For the same reason a concise statement of inclusion criteria should also be included in the Executive Summary.

In general, the DEIR appears to be attempting to create Water Trail responsibility for mitigations that target every possible current or future user of the shoreline access sites. In order to justify this the DEIR repeatedly overstates impacts. As yet another example consider Nav-1, Increased Risk of Incidents Leading to Loss of Life or Collision. Accidents involving NMSBs that result in loss of life or collision with other vessels are astoundingly rare in San Francisco Bay. The proposed mitigation sounds a lot like the Water Trail creating prohibitions about where NMSBs would be allowed to go. The Water Trail does not have this authority and this would be met by stiff opposition from the boating community.

BAI-18

While the mitigations proposed are often commendable and made in the proper spirit of improving the boating experiences of all NMSBers in the Bay they place significant time and financial burdens on owner/operators of potential sites that will very effectively eliminate many of them from Water Trail participation. Elimination of sites destroys the concept of a trail and defeats the purpose of the Water Trail legislation. Elimination of sites also creates negative environmental impacts due to the loss of a public education opportunity. We strongly encourage the Conservancy to revisit the numerous mitigations with an eye to mitigations as obstacles to participation and lack of participation as a negative environmental impact.

# Friends of Corte Madera Creek, Watershed

P.O. Box 415 · Larkspur · California 94977

info@friendsofcortemaderacreek.org (415) 456-5052 www.friendsofcortemaderacreek.org

September 18, 2010

RECEIVED

SEF 2 1 2010

COASTAL CONSERVANCY OAKLAND, CALIF.

Ann Buell, Project Manager State Coastal Conservancy 1330 Broadway, 13th Floor Oakland CA 94612

> RE: Draft Revised Programmatic Environmental Impact Report for Implementation of the San Francisco Bay Area Water Trail Plan

Dear Ms. Buell,

Thank you for considering the Friends of Corte Madera Creek Watershed's comments on the Draft Revised Programmatic Environmental Impact Report for Implementation of the San Francisco Bay Area Water Trail Plan (DREIR).

Corte Madera Creek Watershed has five listed Backbone sites among the 28 sites in Marin County. There are several private launches at the mouth of the creek and in small parks, as well as many private docks in just the limited reach of about two miles between the mouth of the creek and the concrete channel in Kentfield that are not on your list. Judging from the extensive launching facilities as well as the intense boating use on Corte Madera Creek, particularly during winter and spring, our creek appears to be saturated with boating opportunities. Since there are so many launch sites in the vicinity, we suggest that the Higgens boat dock not be reopened and that no other new docks be constructed.

FCMC-1

We request that the following measures be addressed in the final EIR to better protect against adverse impacts to wildlife, endangered species, harbor seals, and wetlands:

 The EIR should identify particularly sensitive and/or saturated areas where no new sites should be encouraged or allowed.
 Corte Madera Creek should be one of these areas.

FCMC-2

2. The EIR should identify launch sites that should be closed seasonally. Remiliard Pond and San Quentin Beach launch provide easy access to the Corte Madera Ecological Reserve (CMER) and Corte Madera Bay; they should be closed in the winter. More activity on the water could impact harbor seals and over-wintering waterfowl that use these areas. Furthermore, these areas are not appropriate for docks.

FCMC-3

3. The Coastal Conservancy or another responsible body should conduct pre-and post-project surveys documenting disturbances to birds and other wildlife, so baseline conditions and impacts are accurately identified. Then usage should be modified to eliminate the impacts. During the winter months there is extensive use of the creek waters by boats, including sculls from the Marin Rowing Association. Continual boat traffic causes repeated disruption to the overwintering waterfowl so that the waters of the creek do not provide a place for the birds to rest and feed. In addition, we are concerned about impacts on the clapper rail population on the creek at the CMER, Piper Park, and Creekside Park. The CMER is particularly impacted by walkers and kite boarders who walk through the tidal marsh, destroying habitat and jeopardizing clapper rail nests and chicks during the breeding season. In addition, the shallow waters of Corte Madera Bay, just outside the mouth of Corte Madera Creek, is important rafting habitat for overwintering diving birds that can often be seen the

FCMC-4

Friends of Corte Madera Creek Watershed Comment Letter on DREIR September 18, 2010 Page 2

thousands. There is a harbor seal haulout along the shoreline of the CMER marshes that is not mentioned in the DREIR

FCMC-5

- 4. Stronger mitigation measures to protect the endangered California clapper rail should be included. Examples of necessary mitigations are:
  - a. Provide docent stewards to ensure personal contact with users of the trail to protect endangered species and their habitats. The current strategy relies heavily on signs and brochures to motivate people to avoid impacts. Sadly, our experience suggests that signs are often ignored and only personal contact, such as that provided in person by docents or rangers, is effective.

b. Close areas during nesting season, using the same standards that are recommended for the protection of harbor seals, i.e. avoidance of impacts.

c. Establish a four-mile distance between the endangered species and new boat launches.

The EIR should identify who would be responsible for enforcement of the measures intended to protect sensitive resources.

What is the plan for ensuring that jurisdictions identify and enforce against violations at trailheads? How will the enforcement be funded?

We would also appreciate more information about how success of the proposed strategies will be evaluated. Most are vague and their effectiveness would be challenging to evaluate. For example, Strategy 3: Improvements Consistent with Site Characteristics states: "Match the type and design of trail-related improvements to the site conditions and likely trail user groups. Ensure that the level of use accommodated provides a high-quality recreational experience, protects the environment and ensures user safety." What examples can the EIR provide of design features would be used to protect the environment in the Corte Madera Creek sites? It appears that we will depend on the CEQA lead agency for each individual project to provide the information needed to assess impacts of a specific trail project. Or consider Strategy 14: Site Review. It is equally vague. How will local groups be included in the process? How would the information gathered during site review be used to improve site management of environmental resources, particularly when the Conservancy has no authority to require managers to take any action? And Strategy 16: Monitoring Impacts lacks follow-up. Monitoring by itself does nothing to address impacts.

In summary, the plan seems to supply more questions than it answers. We had hoped to see a more complete analysis.

Sincerely,

Sandra Guldman

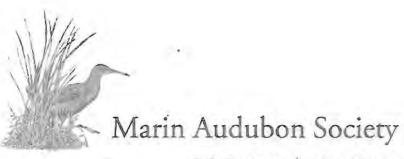
Gandra Guldman

President

FCMC-6

FCMC-7

FCMC-8



RECEIVED

SEH 21 2010

COASTAL CONSERVANCY OAKLAND, CALIF.

P.O. Box 599 | MILL VALLEY, CA 94942-0599 | MARINAUDUBON.ORG

September 20, 2010

Ann Buell State Coastal Conservancy 1330 Broadway, 13<sup>th</sup> Floor Oakland, CA 94612

RE: COMMENTS ON SAN FRANCISCO BAY AREA WATER TRAIL PLAN DRAFT REVISED EIR

Dear Ms Buell,

The Marin Audubon Society appreciates the opportunity to comment on the Draft Revised EIR for the Bay Area Water Trail Plan. This EIR takes a different approach than the previous Draft in that it claims all impacts would be reduced to a less than significant level by the education program. While we agree, that uniform signage, brochures etc. and message could benefit the users and bay resources, we have a number of issues and concerns about the effectiveness this program and about a number of aspects of the Plan and information provided about it.

Generally, our concerns fall into the following categories: (1) the DREIR fails to provide a legally adequate analysis of the project's impact on biological resources and cumulative impacts); (2) the mitigation measures proposed for the project violate CEQA in that the DREIR, in many instances, improperly defers the development of specific mitigation measures, and many of the measures it does provide a e vague, unenforceable, and ineffective; and (3) The DREIR's conclusions that the project will not result in significant impacts is not supported by substantial evidence, either because the analysis itself is legally flawed or the mitigation measures fail to reduce the project's impacts to an insignificant level. In particular, no evidence is presented that supports the repeated claim that users will abide by the educational program message sufficient enough to outweigh the adverse impacts of the increase in users generated by the WT program:

CEQA requires that an DREIR be prepared with a "sufficient degree of analysis to provide decisionmakers with information which enables them to make a decision which intelligently takes account of environmental consequences." CEQA Guidelines § 15151. Decisionmakers cannot make informed decisions based on inaccurate data. Therefore, an EIR containing inaccurate data does not comply with the standards of adequacy for DREIR contained in the CEQA Guidelines. See id.; id. at § 15064(f)(5) (evidence that is clearly inaccurate is not substantial c. idence and, therefore, cannot be the basis of significance findings).

The DREIR presents rather confusing arguments that the increase in NMSB use is likely to be very small relative to the existing use and anticipated growth driven by demographic factors. It is also claimed that the educational program will offset any increase in use. The influence of demographic factors is questionable (see discussion below) and no evidence is presented to support the level of compliance with signs that is anticipated. It is unclear how changes in use levels would even be determined as there no actual baseline condition for comparison.

#### NEED FOR THE PROJECT

A Cal Boating estimates 5.3 million participant days associated with NMSB owned by Bay area residents in 2006. This is described as the "baseline" condition. The DREIR projects that the WT "will result in only a small increase in use ...." but that (page 2-12) by 2010 there would be an increase to 6.2 million participant days for NMSB in the San Francisco Bay Area (also includes inflatables which are not used in

MAS-1

MAS-2

the bay and uses on other water bodies, such as lakes and reservoirs). Apparently there has been no study of the participant-days on the bay.

One of the stated reasons for the need for the project is to "Plan for increased NMSB use associated with regional population growth." The projected increase should be revisited, however, as circumstances have changed and we are now in a recession. With people losing their jobs and homes, this projection may no longer be accurate. The latest economic indicator is that the US birth rate has fallen to its lowest level in at least a century as many people apparently decided they couldn't afford more mouths to feed." (Chronicle 8/28/10 "Birthrate sinks to 100-year low as economy reels")

### PROJECT DESCRIPTION

For an environmental document to adequately evaluate the environmental impacts of a project, it must first provide an accurate description of the project itself. "[A]n accurate, stable and finite project description is the sine qua non of an informative and legally sufficient EIS." San Joaquin Raptor Rescue Center v. County of Merced, 149 Cal. App. 4th 645, 655 (2007) (quoting County of Inyo v. City of Los Angeles, 71 Cal. App. 3d 185, 193 (1977)). Furthermore, "[a]n accurate project description is necessary for an intelligent evaluation of the potential environmental effects of a proposed activity." Silveira v. Las Gallinas Valley Sanitary District, 54 Cal. App. 4th 980, 990 (1997) (citation omitted).

While extensive detail is not necessary, CEQA mandates that an EIS describe a proposed project with sufficient detail and accuracy to permit informed decision making. See CEQA Guidelines § 15124

The Project Description section of the DREIR is a disjointed mix that addresses a variety of aspects including existing conditions, potential sites, users, strategies, facilities and implementation. It is hard to tell what the project actually consists of. The closest to a WT plan presented in the document, seems to be the Strategies (Table 2.3.3-1). The Strategies, however, are vague, poorly defined and insufficiently described for the reader to understand the project.

According to the discussion on page 2-32, the Strategies provide "solutions for the broad range of WT conditions and issues." We are particularly concerned about the following six strategies which are called out as applying to wildlife and environmental protection. All are vague, general statements that lack sufficient detail to allow the reviewer to understand what they mean and how they would be interpreted during review, approval and management of sites.

#3 "Ensure that level of use accommodated...protects the environment." It is not clear what this means. How would the use level be controlled? The methods that would be used to control/limit use to protect natural resources such as wetlands and wildlife should be stated.

#14 "Site review to improve management." It is not clear how this strategy would even relate to natural resources. Neither wildlife or habitat are mentioned.

#15 "Opportunities to coordinate trailhead development with habitat restoration, enhancement or creation." While there may be such opportunities and we would certainly support them, this does not address protecting existing or created habitat. How existing wetland, other bay habitats and wildlife would be protected, should be stated.

#16 "...monitoring of wildlife and habitat conditions prior to, during and after inclusion of the site as part of WT." Monitoring does not limit or reduce impacts. How the data collected would be used is the question? It should be used to trigger corrective action if the information?

#23 "Where feasible, provide training for local law enforcement on wildlife and environmental regulation to identify or prevent violations at trailheads." With the qualifier, where feasible, operators could simply claim that training and further action is "not feasible". What is the nature of the training that would be provided? How can it be assured the training would be used and be effective. Also, the training program would be limited to trailheads. How would impacts in marshes, sloughs and open water be addressed? #24 Establish limits on the number of WT users to prevent impacts to wildlife, habitat, or damage to facilities. This would be enforced primarily through parking regulations. This would be impossible in many locations where parking areas near launch sites are shared with other users, walkers etc. How could NMSB users be singled out for reduced parking.

MAS-3

To understand the project, a more complete description of the WT Plan with the following components should be provided:

- the education program. Signs and brochures seem to be the main components and these are, as well, the primary mitigation measures for the biological impacts. What message(s) would be on the signs, in brochures etc., so the reviewer can evaluate their appropriateness and adequacy. Under what circumstances would docents be provided?
- design standards that will guide development of launch sites (e.g. avoidance of areas where there are wetlands, wildlife particularly endangered species) One problem identified with current condition is that there is no universally accepted design guidelines for non-motorized boat access. Alternatives such as fencing should be discussed. We see potential problems trying to achieve one design because of the difference between sites and uses. Some users want a beach, others want a fixed launch site.
- a procedure to identify areas/sites that would be suitable for new facilities and areas that are not, based on environmental constraints, e.g. their proximity to habitats and species that should be avoided. This would provide positive guidance for potential launch site developers. We recommend that the standard used in the mitigation for Harbor Seals, i.e. avoid new sites that would be four miles from a harbor seal haulouts.
- monitoring plan. Monitoring should be required for all launch sites. If not, how would the decision be made to require monitoring and of what resources? Monitoring should also be required to cover marshes, sloughs and the waters of the open bay. Who would be responsible for and fund monitoring? Monitoring in itself does nothing to avoid or correct problems. It informs action. How would data gathered by monitoring be translated into actions to correct problems that the monitoring may reveal?
- avoidance measures. Measures that would be utilized to avoid impacts to endangered clapper rails, to rafting ducks, be should be identified. Options should include closing sites seasonally, temporarily or permanently to limit or control uses to protect wildlife and wetlands. How would impacts to wildlife in the bay waters be avoided, minimized and stopped? If there are infractions of agreed upon conditions by site managers and the WT designation is removed, what would that mean? Would they be required to remove signs and other improvements.
- plan for providing training for local law enforcement. Has the WT approached any local jurisdictions? How would it be decided that training is "not feasible"? How impacts away from trailheads would be addressed should be stated, as #23 only addresses violations at trailheads. The legal ability and interest of jurisdictions to enforce the endangered species and other wildlife protection laws should be discussed.
- enforcement. Enforcement is not discussed. How would the Conservancy assure that the required conditions and mitigation measures are implemented if they have no control over the sites or managers and no enforcement authority, e.g. what measures would the WT use to enforce limits on the number of WT users, other than parking regulations.
- the trail designation process. How would the interested public be notified and participate in the trail approval process? The CEQA check list should be provided for review by the interested public. Monitoring and an assessment of habitats and wildlife should be prepared in advance of the Trailhead Plan in order that launches can be planned to avoid habitats and wildlife that could be impacted.

A revised table of Strategies should be presented that includes all of additions recommended in the mitigations.

### EFFECTIVENESS OF SIGN PROGRAM/MITIGATION

The mitigation measures for biological impacts rely almost completely on voluntary compliance with education measurers, signs, brochures, some training of staff. It is simply assumed that people will comply; a "Trust me" approach. Compliance would be achieved by planning, outreach, education, and

stewardship. Implementation of management strategies would be the responsibility of site managers and would be voluntary. Education would "help" people be more aware of environmental impacts nd how to avoid or minimize potential impacts. While a consistent educational message might provide some benefit, this does not mean people would comply with the message. People completely disregarding educational signs can be observed all the time along the bay. No data is presented to support this claim. Rather, there is widespread evidence that people ignore signs.

Bare conclusions do not satisfy CEQA. Citizens Ass'n for Sensible Dev. v. County of Inyo (1985) 172 Cal. App. 3d 151, 171. CEQA requires an EIS to contain facts and analysis, not just bare conclusions. Citizens of Goleta Valley v. Bd. of Supervisors (1990) 52 Cal. 3d 553, 568. Substantial evidence must support the DREIR's conclusions. Substantial evidence includes "facts, reasonable assumptions predicated upon facts, and expert opinion supported by facts." CEQA Guidelines § 15384(b).

Of particular concern is the potential for impacts in the waters of the Bay. The EIS acknowledges that "most key decisions for paddleboarders and board sailors occur on the water" and that it would be infeasible to install on-water signs in most areas. How impacts from these uses would be addressed warrants further discussion., Is this then an unmitigateable impact? Are there any locations where they could be installed.

One particularly egregious example of users ignoring signs is the significant adverse impacts to the endangered species habitat on the Corte Madera Ecological Reserve. Contrary to discussion on page 2-19 16 sites provide suitable wind and launch conditions for windsurfers and/or kitesurfers or kiteboarders. Kite boarders require launching from soft area separated from hard-surfaces. The discussion states it is a "fairly new sport and "has relatively few participants." Makes no difference if, in the scheme of the larger bay area, the participants seem like a few. The Reserve marsh, which supports a core population site for endangered Clapper Rails as identified by the DRAFT USFWS TIDAL MARSH RECOVERY PLAN, is now used by kiteboarders who walk right across the marsh, lay out their equipment and launch from the marsh itself. As a result, they have worn a path straight across the marsh to the Bay, trampled native tidal marsh vegetation and completely denuded a large swath of endangered species habitat. Other launch sites would not be suitable, as they claim because they need soft launch surfaces. Launch time is when there is sufficient wind which happens to coincide with Clapper Rail nesting season. The kiteboarders have ignored, and in fact stolen educational signs. But they have taken another launch site when spoken to by a DFG staff.

In summary the DREIR lacks substantial evidence to support its conclusions. An DREIR must provide a degree of analysis and detail about environmental impacts that will enable decisionmakers to make intelligent judgments in light of the environmental consequences of their decisions. CEQA Guidelines § 15151; Kings County Farm Bureau v. City of Hanford (1990) 221 Cal. App. 3d 692, 712. To this end, the lead agency must make a good faith effort at full disclosure of environmental impacts. Both the public and decisionmakers need to fully understand the implications of the choices that are presented related to the project, mitigation measures and alternatives. Laurel Heights Improvement Ass'n v. Regents of University of California, (1993) 6 Cal. 4th 1112, 1123. In this case, the DREIR's analysis of environmental impacts fails to provide sufficient information to enable informed decision making.

### **BIOLOGICAL IMPACTS**

The discussion on p. 3-80 mislocates the Heerdt Marsh in Corte Madera as being in San Pablo Bay. It is in Central Bay which is commonly defined as extending north to the Richmond San Rafael Bridge.

PROTECTED WILDLIFE AREAS

MAS-5

The presence of the Corte Madera Ecological Reserve and other habitat areas owned by DFG and other state agencies should be addressed and the state codes for management of these lands should be referenced and described. The Corte Madera Ecological Reserve, for example was established to protect

the endangered California Clapper Rail. Similarly, the location and a description of the federal wildlife refuges also should be included.

MAS-6

### ENFORCEABILITY/EFFECTIVENESS of MITIGATION MEASURES

CEQA requires that "mitigation measures proposed in an EIS must be "fully enforceable" through permit conditions, agreements, or other legally binding instruments." CEQA § 21081.6(b); CEQA Guidelines § 15126.4(a)(3). Where the lead agency does not incorporate the mitigation measures into the project or equire the mitigation measure as a condition of approval, the lead agency has not made a binding commitment to implement the mitigation measures. Federation of Hillside and Canyon Ass'ns v. City of Los Angeles, 83 Cal. App. 4th 1252, 1262 (2000). Uncertain, vague, and speculative mitigation measures have been held inadequate because they lack a commitment to enforcement. See, e.g., Anderson First Coalition v. City of Anderson (2005) 130 Cal. App. 4th 1173, 1188-89. Many of the proposed mitigations would require implementation by another party. How can the Conservancy commit to implementation of the mitigation measures that would have to be carried out by WT managers/owners? Effectiveness of education program relies on voluntary compliance by users. No evidence is presented to verify that compliance would occur. In fact, there is substantial evidence to the contrary around the Bay.

MAS-7

We are concerned that mitigation measures proposed for many of the identified impacts will not reduce impacts to an insignificant level, and only avoidance would. Avoidance measures are sometimes referenced, but not presented and discussed.

Discussion of specific impacts and proposed mitigation measures:

### IMPACT BIO-1 SPREAD OF INVASIVE PLANTS

M1 Educational materials should include information about the spread of invasive plants on all sites as exotic plants are a major threat throughout the estuary. The proposed language should be included.

Instead of "taking steps to minimize boat and foot traffic trampling on vegetation," site managers should' avoid impacts by preventing access. How this would be done should be stated in order to evaluate the effectiveness. Avoidance should be the mitigation of choice. There should be follow -up punitive consequences for violators such as prohibiting them from launching from that site.

MAS-8

### IMPACT BIO-2 CONSTRUCTION RELATED IMPACTS TO WETLANDS

Strategies 1, 3, and 4 would guide WT improvements away from sensitive wetlands habitats to the greatest extent feasible. These criteria could be used to excuse a lot of fills. The term "sensitive' should be deleted. All wetlands are sensitive. What would make this mitigation infeasible? The discussion excuses "ordinary small wetland fills or other wetland impacts associated with boat launching ramps and small trailhead facilities by saying they "would not be expected to have significant impacts in most urban settings." What constitutes a small and ordinary wetland should be defined. If wetland resources remain in urban settings, their value would be increased by their rarity, and every effort should be made to protect them. The cumulative impact of many small fills must also be considered.

MAS-9

M2 This mitigation relies on compliance with existing regulations and policies concerning consideration and protection of wetlands "and./or implementation of compensatory mitigation if impacts to wetlands are unavoidable."

Mere compliance with permitting requirements is not sufficient to mitigate for an otherwise significant impact. See Communities, for a Better Env't v. Cal. Res. Agency (2002) 103 Cal. App. 4th 98, 110-14; see also Citizens for Quality Growth v. City of Mt. Shasta, 198 Cal. App. 3d 433, 443 n.8 (1988) (holding that

Corps' wetland permitting did not excuse necessity of addressing project's wetland impacts in a CEQA document).

Surveys to determine the extent and characteristics of wetlands should be conducted prior to application for WT status. BIO M2 would delays mitigation for some future time, if avoidance is not required. "If wetland impact avoidance is not feasible be, managers will prepare and implement plans to compensate for unavoidable wetland impacts ....". In order to ensure compensatory mitigation would be adequate, standards for adequate mitigation should be stated and these should include 2:1 replacement ratios of the same wetland type, on-site or as close as possible to the site of loss. However, we note that avoiding impacts could be accomplished by not approving a WT site where it would be infeasible to avoid filling wetlands

CEQA does not allow an EIS to defer analysis and mitigation to a future time. Sundstrom v. Mendocino County (1988) 202 Cal. App. 3d 296. A project's impacts must be analyzed, disclosed, and mitigated at the "earliest feasible stage in the planning process." Id. at 307; see also CEQA Guidelines § 15126.4(a)(1)(B).

Courts have allowed deferral of mitigation in very limited circumstances. "[F]or kinds of impacts for which mitigation is known to be feasible, but where practical considerations prohibit devising such measures early in the planning process . . . , the agency can commit itself to eventually devising measures that will satisfy specific performance criteria articulated at the time of project approval." Sacramento Old City Ass'n, v. City Council of Sacramento (1991) 229 Cal. App. 3d 1011, 1028-29. To rely on future plans as mitigation without running afoul of CEPA's prohibition on deferred mitigation, the DEIR must explain why practical considerations prohibit devising mitigation early in the planning process before deferring mitigation to a future study. Id. Furthermore, the DEIR must contain specific performance criteria by which the sufficiency of the future mitigation will be judged. Id.

IMPACT BIO-3 WETLAND IMPACTS DUE TO INCREASED TRAMPLING OF WETLAND VEGETATION This impact states that Trailhead Plans shall consider whether sensitive wetland vegetation occurs at or in the vicinity. All native wetland vegetation is sensitive. Replace sensitive with "native." Informal trails caused by people landing their boats in marshes and walking around is a major concern. The only time trampling would be benign is if it only one person walking through very rarely.

### M-3 ESTABLISH TRAILHEAD RESTRICTIONS

The proposed mitigation measures are vague, poorly defined

"Prepare and effectively publicize guidance to discourage landings along vegetated wetland banks of sloughs..." How would this be done? What is effective publicizing? How would landings be discouraged?
 "Foot traffic and boat contact with wetland ...vegetation would be minimized at trailheads...."
 Contact with wetland vegetation should be avoided, not minimized.... through design and ...to make accessing the water along designated routes more attractive...." The meaning of this is unclear. Design features that would make designated routes attractive to user to the extent that they will not walk on wetland vegetation should be stated.

Access should be prevented or effective monitoring and timely enforcement should by either speaking to or ticketing.

3. "...annually inspect trailheads...for the development of new informal trail network emanating from trailheads." Annual inspection is insufficient. There should be regular monitoring of the activities of users and inspection of marshes monthly. There is no evidence presented to support the conclusion that symbolic fencing and signs would result in people avoiding trampling or landing on marshes?

4. "...operators should track use patterns...if there is a notable increase in use, should conduct periodic surveys..." If trampling impacts detected, ....trailhead managers will take feasible actions to close the incipient landings by placing signage or otherwise discouraging or prohibiting lands at trampling-impacted slough banks...." All a manager would have to do is say doing anything is "infeasible " this is not an effective mitigation. Why would surveys only be conducted if there is a notable increase" in use? Existing

MAS-10

MAS-11

MAS-12

users could cause trampling impacts. Requiring managers to conduct surveys during use times and refusing to allow people observed trampling from using the facility, should be considered as avoidance measures.

Avoidance measures including fencing and temporary or permanent closures should be addressed.

M —2 The first recommendation should be how to avoid trampling of vegetation. Trampling of native vegetation and non-native are both important for different reasons. Signs, monitoring and enforcement should be required near all wetlands. The seeds of invasives should not be carried away, and native plants should not be damaged. Signs, monitoring and enforcement should be required at all wetlands.

### —4 CONDUCT SURVEYS, ADOPT AVOIDANCE MEASURES AND INSTIGATE COMPENSATORY MITIGATION

Surveys should be conducted as part of the pre-application process to evaluate the suitability of including a site. Avoidance is mentioned, but there is no discussion of what steps would or should be taken to avoid impacts to the plants. The discussion simply goes directly to "If the special status plant impact avoidance is infeasible...." Methods for avoiding special status plants should be presented for evaluating in this DREIR. The area where they are located, should be avoided, either by not approving the site for WT status or some other physical barrier. As discussed above, preparing mitigation plans at some later date is not allowed under CEQA.

MAS-13

### **BIRD RESOURCES**

Black Oystercatcher nest on the Marin Islands. There is a potential to impact from boats 3-106

MAS-14

It is acknowledged (p. 3-117) that increased use in waterbird rafting areas would increase energetic costs for waterbirds. Again, it is claimed that "improved education would counteract such disturbance by reducing the likelihood that any particular boater would disturb waterbirds." No evidence is provided to support this conclusion, and no monitoring is proposed to document potential impacts.

MAS-15

The discussion on page 119 does not recognize that major portions of Pacific Flyway populations of many waterbird species overwinter in the Bay area. The cumulative impacts of numerous or serial disturbances may have detrimental effects on water bird populations of the Pacific Flyway, not only within the specific area where the disturbance results.

MAS-16

The guiding principle (p. 120) for managing human activities in areas that support important waterbird population to "avoid or limit human activity or limit overlap of human activity with those populations." How could the overlap be limited sufficiently to be a feasible mitigation?

MAS-17

### IMPACT BIO-5 DISTURBANCE OF RAFTING WATERFOWL

Given the number of potential WT sites from which areas frequented by rafting waterbirds are accessible on a day trip, new sites and/or continuing/existing sites could lead to increased disturbance of waterbirds and to declines in abundance but assumes. No data is provided to support the claim that "It is likely that educational benefits of the WT would counteract Potentilla impacts to rafting waterfowl rassling from implementation of the plan."

MAS-18

The Santa Barbara experience is cited to support the effectiveness of education. The referenced Santa Barbara study was effective only when there was person-to person contact asking the persons not to go on beach near plovers. The Santa Barbara study was ineffective using signs without people present. This is the same experience as at the Corte Madera Ecological Reserve where people ignored and stole signs. And only complied when someone was there to speak to them.

Strategies 12, 17, 18, 19, 21 and 22 are referenced. These strategies all have to do with passive education, except 22 which is for trailhead stewards. Again, there is no information provided to support the

assertion that these passive education efforts would be effective. Trailhead stewards might be effective, however, Strategy 24 limits their responsibility to trailheads only. This mitigation should be expanded to provide specific requirements for when stewards would be used and to expand their responsibilities to habitats beyond the trailheads, i.e. to bay waters and marshes.

—5 AVOID DISTURBANCE OF RAFTING WATERFOWL FROM ROOSTING OR FORAGING HABITAT This mitigation mentions avoidance, but provides no recommendations for how to achieve avoidance. Instead, the discussion assumes that large, noisy ferry cause greater disturbance than NMSB. No evidence is presented to support this conclusion, however. It could very well be that smaller less noisy vehicles are more threatening because they may seem more like predators. They can also "sneak" up on birds in sloughs causing fright disturbance.

MAS-19

The smaller buffer distance of 250 feet (AR) is chosen instead of the 300 feet buffer which should be preferred because it would be more protective. How would it be assured that large rafts of birds spread over great distances are avoided? The mitigation recommendation should address a requirement for docents to be located at trailheads near rafting waterbirds.

IMPACT BIO-6 DISTURBANCE TO WADING BIRDS, SHOREBIRDS AND BROWN PELICANS
The discussion recognizes wading birds and shorebirds but concludes, again, that education and public outreach would be "expected to sensitize" users to disturbance issue. Small flocking shorebirds are very susceptible to disturbance by NMSB while on high tide roosts during high tides. They are most vulnerable then because high tide roosts are limited. Training sessions are mentioned for rental stores. Wading birds such as willet and egret use tidal channels and could be impacted by NMSBs. Potential impacts to these species should be addressed. The mitigation also needs to present actions to assure that boaters would avoid shorebird roosts during high tides.

MAS-20

—6 AVOID DISTURBANCE TO BROWN PELICAN S FROM ROOSTING AND FORAGING HABITAT Again, there is no discussion of avoidance measures, only education and public outreach as being educating NMSB users on" the need to avoid and ways of avoiding impacts to roosting pelicans - nor shorebirds. 3-125 expected to minimize or completely offset adverse impacts resulting from the very small incremental increase in Bay users." No evidence is provided to support this conclusion. Actions that would result in avoidance to roosting shorebirds and pelicans should be stated.

MAS-21

The discussion relies on education, recommending buffers, and siting and design measures that would be implemented during the site-specific evaluation for brown pelican. The recommended siting and design measures should be stated.

### IMPACT BIO-7 DISTURBANCE TO BIRD NESTING HABITAT

M7 This mitigation also relies on education of users regarding the need to avoid, appropriate buffer distances and ways of avoiding, impacts to nesting birds. What are the ways users will be advised to avoid impacts? Again, no evidence is provided that education would offset the "incremental increase in Bay users."

MAS-22

The discussion calls for requiring appropriate signage and educational materials on WT sites within four miles of wader nesting habitat on West Marin Island, Red Rock. There are four and possibly five launch sites this close to the Marin Islands, people could also possible come from the south. What should the signs say to prevent intrusions to these habitats?

IMPACT BIO-8 DISTURBANCE OF CLAPPER RAILS AND BLACK RAILS

Both the endangered California clapper rail and the special status black rail depend entirely on tidal marshes of San Francisco bay for cover, food and nesting. The discussion of how the WT will assure protection of this endangered species is surprisingly inadequate.

MAS-23

The discussion should be expanded to address that clapper rail survival is tied to tidal sloughs. This is where they nest and forage. It is also where NMSBs would go. The DEIR should address avoidance first, not approving monitoring and enforcement, seasonal closures and possibly permanent closures for existing sites.

M -8 Why should a buffer zone for clapper rails need to be "universally recognized." This criteria is not applied to other species? Why is the 700 feet recommended for the South Bay Salt Pond project ignored while a 50-foot buffer zone at one sise, Greco Island is used. This analysis is inadequate. No scientific support is provided. A 50-foot buffer from an endangered clapper rail is completely inadequate, particularly during nesting season. At minimum a 100-foot buffer should be required.

Avoidance, including staying out of sloughs and marshes that are known nest sites for clapper rails during breeding season should be a requirement. Boaters don't know where the nests are located and could come upon one cause adult to leave which could trigger avian predators, such as raven or crow, to fly in and capture chicks or eggs.

"Feasible methods by which watercraft traffic shall avoid channel systems used by nesting rails shall be specifically identified during the trailhead designation process, ..." This recommendation delays mitigation to come future time which is not allowed by CEQA. Methods that will ensure watercraft will avoid channels used by nesting endangered species should be presented in this EIR. The only effective method we can think of is seasonal or permanent closure, and enforcement. No evidence is presented that signs alone would be effective.

How will the approval process evaluate and what conditions would be required for approving new boating facilities near clapper rail habitat. In Marin, there are at least eleven sites out of the total of 28 that are within four miles of clapper rail habitat. How many are within four miles of rail habitat in the bay?

It is absolutely essential that clear enforceable measures that would effectively avoid impacts to this endangered species be identified and required. We recommend the same standard that is proposed for harbor seals, i.e. no trail heads four miles from endangered clapper rail habitat be used and discussed.

IMPACT BIO -9 SPECIAL STATUS SPECIES San Pablo Song Sparrow Common Yellowthroat, northern harrier.

M -9 The USFWS DRAFT TIDAL MARSH RECOVERY PLAN identifies a BUFFER OF 100-300 feet for these species. This standard should be required for WT sites.

IMPACT BIO-12 IMPACTS ON SPECIAL STATUS MAMMALS OF BAYLAND MARSHES
All of the seal haul out locations should be identified as all are important. The he Corte Madera Ecological
Reserve site along the bayfront is not mentioned as a harbor seal haul out area.

M 12 UNDERTAKE AVOIDANCE MEASURES

We strongly agree that "The best way to prevent potential impacts to marsh-dependent sensitive species is to ensure that NMBS users avoid areas that could potentially have these animals." Again educational programs including outreach, signs, "shall encourage" boaters to avoid entering the habitat. The distance discussed in Mitigation BIO= M-14B is presumably that required in the Marine Mammal Protection Act.

Stating on signs a warning that people could get "STUCK IN THE MARSH" is an interesting idea. Why not state that on all signs near marshes. Why just use this language for harbor seals?

The discussion concludes that education would be effective because the materials would "be available to all NMSB users not just the small fraction of new users potentially attributable to implementation of the WT Plan." It is not clear how this would translate to compliance?

MAS-24

MAS-25

MAS-26

MAS-27

At sites where there is a significant level of concern about user impacts to wetlands, WT shall work with managers to ...encourage the implementation of docent programs at trailheads to enhance effectiveness of signs and related materials. This is a reasonable, positive approach. Why is this only mentioned for marine mammals? Why is it not recommended for other environmental and species impacts?

MAS-28

IMPACT BIO-14 DISTURBANCE DUE TO INCREASED PRESENCE NEAR HAUL OUTS.

Cites that are currently or are proposed to be located within four miles of a seal haul out should receive a recommendation not to be accepted as a WT site.

MAS-29

Table 3.9.5-1of backbone sites located within four miles of a harbor seal haul out is in error. Sites M25, M 27. M28, M29, M30 and possibly M31 are located four or fewer miles from the haulout at the Corte Madera Ecological Reserve.

MAS-30

### ADDITIONAL IMPACTS NEEDING TO BE ADDRESSED:

- Impacts to endangered and migratory species away from trailheads, on marshes and open waters of the How would these impacts be mitigated. Mitigations are only addressed for trailheads.

MAS-31

- The SITE FACILITY ENHANCEMENTS discussion addressed one of the main priorities for the WT is "improving access to, within and around the Bay." and one of the primary means is to provide enhanced facilities, including increasing the capacity of sites. Some of the listed Site Facility Enhancements actually have the potential to adversely impact the Bay waters and habitats. These include lawns, building of facilities i.e. parking lots, ramps, boat storage, etc. that would increase pervious surfaces and polluted runoff; boat washing facilities if not connected to a treatment system. These "enhancements" may have adverse impacts which require mitigation.

MAS-32

 cumulative impacts of the water and bay trails on endangered and other tidal marsh dependent species should be addressed. The combination of the bay trail on the landward side of marshes and water trail on the water could leave the clapper rail with no place to go to hide from raptors at high tides.

MAS-33

#### CONCLUSION

In conclusion, we emphasize that the EIR analyses is quite vague and superficial. A "programmatic" DEIR is no excuse for its lack of detailed analysis. CEQA requires that a program EIR provide the in-depth analysis of a large project, looking at effects "as specifically and comprehensively as possible." CEQA Guidelines § 15168(a), ©)(5). Because it looks at the big picture, a program EIR must provide "more exhaustive consideration" of effects and alternatives than can be accommodated by an EIR for an individual action, and must consider "cumulative impacts that might be slighted by a case-by-case analysis." CEQA Guidelines § 15168(b)(1)-(2).

A programmatic EIS "[a]llows the lead agency to consider broad policy alternatives and program wide mitigation measures at an early time when the agency has greater flexibility. . . . " CEQA Guidelines § 15168(b)(4). A "program" or "first tier" EIR is expressly not a device to be used for deferring the analysis of significant environmental impacts. Stanislaus Natural Heritage Project v. County of Stanislaus (1996) 48 Cal. App. 4th 182, 199. It is instead an opportunity to analyze impacts common to a series of smaller projects, in order to avoid repetitious analyses.

Thank you for considering our concerns.

Barbara Salzman, Co-chair Conservation Committee

Phil Peterson, Co-chair Conservation Committee



### SAN FRANCISCO BOARDSAILING ASSOCIATION

1592 UNION STREET, BOX 301 . SAN FRANCISCO, CALIFORNIA 94123

September 10, 2010

Ms. Ann Buell State of California Coastal Conservancy 1330 Broadway, Suite 1300 Oakland, CA 94612

Subject: Comments on the San Francisco Bay Area Water Trail Plan Draft Revised Environmental Impact Report (EIR)

Dear Ms. Buell:

The San Francisco Boardsailing Association (SFBA – Windsurfing & Kiteboarding) submits the following comments on the Bay Area Water Trail Draft Revised Environmental Impact Report (EIR). The State of California Coastal Conservancy (SCC) has long had a mandate of improving access to the coast, and over time it has created significant enhancements enjoyed by many. To our disappointment, however, much like the initial Water Trail (WT) EIR, this Revised EIR also does not meet its main objective of adequacy and completeness in its good faith effort of full disclosure.

Overall, the EIR provides for a rather timid approach of adding existing Bay Area Windsurfing and Kiteboarding sites to the Water Trail, treating existing sites as if they were expansions into sensitive areas of the Bay rather than as an opportunity to educate an existing group of users. Additionally, no improvements such as restrooms or outdoor showers are possible with this EIR, and the process for adding existing sites to the Water Trail is so unwieldy that we question whether many site managers have the patience and resources during these difficult times for local government's recreation budgets. As a result, we believe SCC risks losing the support of the people who should be considered partners, constituents and targets for your own education efforts.

### List of HOS's Omits Many of the Existing Sites Used by Windsurfers and Kiteboarders

The EIR notes incorrectly on page 2-19 that only sixteen (16) of the one hundred and twelve (112) sites in the WT plan are windsurfing and/or kiteboarding sites, and a number of these are excluded from the list of HOS's. Thus, the listing of existing windsurfing and kiteboarding sites will likely be required to go through an extensive designation process, or more likely, continue to be used without any potential grant funding through the water trail or any associated stewardship or education efforts.

The following popular windsurfing sites are included as HOS's in Table 2.3.2-1: Berkeley Marina (A26), Emeryville Marina, San Leandro Marina, Crown Memorial Beach in Alameda, Pt. Isabel, Shimada and Vincent Parks in Richmond, Candlestick Point, Crissy Field, Third Avenue, two sites in Benicia (Matthew Turner Park and the Ninth Street Launch and beach) and Coyote Point Beach. This is only thirteen (13) of the

SFBA-1

### SAN FRANCISCO BOARDSAILING ASSOCIATION

1592 UNION STREET, BOX 301 • SAN FRANCISCO, CALIFORNIA 94123

twenty-four (24) sites that are currently in use, and includes only four (4) sites used by kiteboarders — Crown Memorial, Third Avenue, Crissy Field, and Vincent Park.

The Revised EIR also excludes from HOS consideration existing windsurfing and kiteboarding launches at Albany Beach, Point Emery, Treasure Island, Rod and Gun, Larkspur Landing, Remillard Park, San Quentin, the Cove near Presidio Yacht Club and Rodeo Beach. Adding the Treasure Island site at this time may be difficult, since it is still considered Navy property.

Our members use all of these sites, and including them at this time would promote educational efforts that would decrease, not increase, any potential impacts. As currently designed, the SCC would adopt a plan that would defer educational efforts indefinitely and perhaps permanently if local governments find the requirements too onerous. As a result of the constrained set of HOSs, the Water Trail includes no sites for windsurfing or kiteboarding in either Marin County or Santa Clara County, where a number of our members live and/or work and have pioneered sites on their own. To these users, the Water Trail effort provides no benefit and thus sacrifices the ability to reach existing members who sail from these sites.

### Trailhead Designation Process is Unwieldy and Lacks Transparency

It is frustrating for Non-Motorized Small Boat (NMSB) users that five years after the State Legislature declared that:

Water-oriented recreational uses of the San Francisco Bay ... are of great benefit to the public welfare...

and established policies of

...protecting endangered and threatened species, and species of special concern...

SFBA-2

and encouraged SCC to undertake projects during the period when the plan is being prepared, that we find ourselves with another Draft EIR that will not actually designate any of the existing sites. In the case of many of the existing windsurfing and kiteboarding sites, it seems to require an extensive and expensive further planning process, requiring "much more detailed Trailhead Plans...with site-specific CEQA review." If local governments are discouraged by these requirements, these sites will remain in use, but without the benefits of education and user awareness. This seems to be counter to SCC's objectives.

#### New Sites are Needed

Many of our windsurfers and kiteboarders are interested in windsurfing after work in areas close to their work sites. In fact, many of our members (including your's truly) have chosen specific locations within the Bay Area as their home and workplace

SFBA-3



### SAN FRANCISCO BOARDSAILING ASSOCIATION

1592 UNION STREET, BOX 301 . SAN FRANCISCO, CALIFORNIA 94123

specifically for the world-class windsurfing and kiteboarding sites and opportunities, and a good number have chosen professions and employers based upon the ability to windsurf and kiteboard in the mid-to-late afternoons when the wind is at its strongest. Many of our members are familiar with the provisions of the California Constitution, and often view launching their boards or kites as a fundamental right, as Section 4 of Article 10 of the Constitution provides:

No individual ... shall be permitted to exclude the right of way to such water ... or obstruct the free navigation of such water; and the Legislature shall enact such laws as will give the most liberal construction to this provision, so that access to the navigable waters of the State shall always be attainable for the people thereof.

When no workable process to formally establish new sites is available, our users have used existing segments of the Bay Trail, or beaches or other access points to reach the Bay. The following recent experience with kiteboard launching in Corte Madera marsh should illustrate the potential concerns of not providing for our members needs:

The California Department of Fish and Game (CA DFG) manages the Corte Madera marsh as a wildlife refuge. Their web site includes the following language: "Only lightweight hand-carried boats may be launched within the reserve." Local kiteboarders began to launch their kites from the marsh, believing that their lightweight hand-carried boards fit within that definition. However, the spreading of kite-lines in preparation for launch affected about half an acre of marsh grass.

This experience illustrates the need for new sites to accommodate the growing sport of kiteboarding, and that absent suitable sites... users will pioneer new sites. Clearly the incident in Corte Madera marsh did not occur as a result of having designated an existing site part of the Water Trail; but instead because the existing sites were not considered safe by kiteboarders. If the SCC establishes an unwieldy process that does not meet user needs, the result could be something that none of us can influence or manage as users pioneer new sites and regulators try to respond.

Sincerely,

signed

William Robberson, President San Francisco Boardsailing Association

415 307-7720 billrobberson@sfba.org SFBA-4

350 Frank H. Ogawa Plaza, Suite 900 Oakland, CA 94612-2016

t. 510.452.9261 f. 510.452.9266

www.saveSFbay.org

September 16, 2010

Ann Buell California Coastal Conservancy 1330 Broadway, Suite 1300 Oakland, CA 94612

### Dear Ann:

We appreciate the opportunity to comment on the Draft Revised Environmental Impact Report for the San Francisco Bay Area Water Trail. We encourage the Proposed Project's adoption as the preferred alternative in the Final EIR.

Save The Bay is the largest and oldest organization working exclusively to protect, restore and celebrate the San Francisco Bay and Delta. Since 1961, we have worked to reduce pollution and landfill in San Francisco Bay-Delta, restore habitat for fish and wildlife, and increase public access to the Bay and shoreline. We helped establish the San Francisco Bay Conservation and Development Commission (BCDC) as the first coastal zone management agency to regulate Bay and shoreline uses and to increase public access.

Save The Bay actively supported passage of AB 1296 (Hancock) to establish the San Francisco Bay Area Water Trail, and worked with a task force of agency and NGO representatives to craft a plan to establish the trail. We have provided formal and informal input to you and others working to develop the Water Trail so that it can be a successful addition to the network of public access opportunities around the Bay, a goal that is central to the mission of the Coastal Conservancy and its San Francisco Bay Area Program.

The Draft Revised Environmental Impact Report provides important additional information and clarity on the project description, alternatives and impacts, additional strategies for implementation, and additional informational appendices. Together these changes reinforce the selection of the Enhanced Water Trail Plan Alternative as the Environmentally Superior project alternative. We appreciate the careful consideration of other alternatives, and the rejection of certain alternatives. The DREIR also includes clearer information on mitigation of potential project impacts through suggested changes to the original Water Trail Plan adopted by the California Coastal Conservancy.

STB-1



We remain enthusiastic about opportunities for the Water Trail to significantly enhance water-oriented recreational uses of San Francisco Bay, especially by non-motorized personal watercraft, to link existing access for watercraft, and identify priority areas for enhanced access infrastructure. The Water Trail can be developed and managed consistent with BCDC policies and regulations, which include extensive guidelines on the provision of public access consistent with wildlife protection. In fact, through its operation and educational outreach to its users, the Water Trail can advance wildlife protection, reduce impacts to habitat, and aid in predator control.

Thank you for completing this comprehensive effort to revise the project EIR to ensure full compliance with the California Environmental Quality Act.

Sincerely,

David Lewis

**Executive Director** 

David Lamis

SEP 2 0 2010

COASTAL CONSERVANCY
OAKLAND, CALIF.

### SHORELINE WATCH FOR SAN JOSE

6494 Bancroft Way, San Jose, CA 95129

408-257-7599

wildlifestewards@aol.com

September 21, 2010

Ann Buell Project Manager State Coastal Conservancy 1330 Broadway 13<sup>th</sup> Floor Oakland, CA 94612

RE: Comments about the San Francisco Bay Water Trail Plan Draft Revised EIR of August 2010

Dear Ms. Buell:

Shoreline Watch for San Jose (SWSJ) is pleased to have this opportunity to comment on the August 2010 Draft Revised EIR (DEIR) for the San Francisco Bay Water Trail (Water Trail). SWSJ is an affiliate member of the Citizens Committee to Complete the Refuge (CCCR) with the focus of applying CCCR's objectives to wetland, wildlife and National Wildlife Refuge issues on and about San Jose's shoreline and as related to broader issues of San Francisco Bay (Bay). Beyond this core basis, SWSJ brings personal experience at work and in the community in public outreach, environmental education, interpretation, volunteer programs, various biological surveys and more than a decade of meeting and workshop participation involving topics affecting our Bay's wetlands and National Wildlife Refuges (NWRs).

Comments in this letter presume that a Project will be implemented as either Alternative 2 or 3 or similar. As such, it addresses issues relevant to implementation of a non-motorized small boat (NMSB) Water Trail in the far South Bay, issues that impact local NWRs and broader issues impacting wetlands and wildlife throughout the Bay.

<u>In General</u>: There is no question that boating provides wonderful opportunities to appreciate the special beauty of our Bay and its wildlife. Being on open waters is one of the few ways to visually absorb the extant landscape, embraced by the mountain ranges and the watershed terrain thus formed.

For decades now an extensive regulatory setting has emerged as a reaction to the human footprint that has extensively altered and continues to threaten the Bay. Such regulations need to merge with recreation mindsets, making the environmental responsibilities both individual and personal. The Water Trail has both the opportunity and the critical responsibility to do so.

The DEIR's mitigation recommendations must then be feasible and reportable, such that they can be readily applied by NMSB users and Trailhead management. They must include practical methods, measurement reference points or standards, description of suitable data, either already available or that may be newly compiled, and reports to be published with appropriate periodicity. For example, signage is a frequent DEIR mitigation tool but mitigation text lacks requirements to collect and compare impact data pre- and post-installation.

SWSJ-1

**ACTION**: Every mitigation recommended in the DEIR needs to be evaluated to be practically applicable by non-scientists and, for monitoring, incorporating standards and measurability.

Site SC2, Alviso Marina County Park Boat Ramp: The Santa Clara County Parks Department opened its new boat ramp on June 5th, 2010, several months before this DEIR was completed and subsequent to a US Army Corps of Engineers (COE) Permit issued September 8, 2009. The DEIR ignores this change through most of the document, finally acknowledging it in its discussion of Alternative 1. Elsewhere the site is described and coded in the DEIR as a "Planned Launch" site and should be listed as an "Existing Launch" site.

SWSJ-2

ACTION: Throughout the DEIR correct SC2 launch status in text, maps and tables.

Data Omission, High Opportunity Site (HOS) designation criteria (2.4.3): The DEIR describes in great detail the steps and actions needed for a new or backbone site to acquire HOS or Trailhead designation. The document does not include a section or table that demonstrates how DEIR-identified HOS have already met those same criteria. That makes it impossible for a DEIR reader to compare, for instance, Site SC2 to the qualifications of the DEIR-identified HOS. Such data should be provided as HOS status is the gating factor for eligibility for Water Trail funding and planning support. Without the data, there is the unfortunate and certainly unintended impression of a blanket decision giving support preference to 57 of the 112 backbone sites.

SWSJ-3

**ACTION**: Provide a data chart that establishes that all sites designated HOS meet the same criteria that will be required for any backbone or new site that may seek Trailhead designation.

HOS eligibility for SC2/Alviso Marina County Park: Lacking comparative data to current DEIR-identified HOS locations (see above), there is still ample reason to believe that this site should be eligible to be added to the current HOS list. Certainly its amenities appear to be equal to those available at other launch sites classified as HOS. It is an existing launch established on the basis of a CEQA process completed prior to publication of this Water Trail DEIR. Its COE permit also includes a US Fish & Wildlife Service (FWS) Biological Opinion of August 2009. It is operated by the Santa Clara County (SCC) Parks Department, giving the site substantive supporting infrastructure. The site already has interpretative signage introducing visitors to surrounding wetland habitats. Its location links to the San Francisco Bay Trail and the Guadalupe River Trail and is walking distance from restaurants. Further, it is the most southerly of Water Trail backbone sites identified by the DEIR and one of only three sites south of the Dumbarton Bridge.

SWSJ-4

The DEIR, in its discussion of Trailhead Designation (2-50), differentiates HOS designation and non-HOS as readiness to initiate the Sign plan. That distinction for HOS is defined as sites where the only physical construction required to meet trailhead designation criteria is signage (2-50). The addition of the ramp has created a new need for signage educating NMSB users, and others, regarding public safety and wildlife/habitat protection from the boating perspective. As such it is ready for a Water Trail Sign Plan.

**ACTION**: The opportunity status of Backbone Site SC2 needs to be reevaluated for reclassification to HOS in this document.

Water Trail Development and Management Strategies (2.3.3): It is puzzling to find that the Water Trail Strategies do not specify integration of public safety entities into the Water Trail management process, other than through implied involvement under ABAG or US Coast Guard participation on the Advisory Committee.

Recent incidents and issues at the newly opened boat ramp in Alviso, point to the value of regional support for public safety planning. Personal communication with Sergeant Eric Buorossa of the Santa Clara County (SCC) Sheriff's Office, Matt Anderson of SCC Park Rangers operations and Eric Mruz of the Don Edward San Francisco Bay National Wildlife Refuge identified the following issues:

- \* New equipment and training: Incidents involving boaters stranded at low tide require response by a helicopter patrol to assess the situation and advise boaters as to available courses of action. When that patrol determines that rescue is needed, it will call for a Coast Guard helicopter from San Francisco. Concerned about the expense and hazards of that method, local public safety officials are evaluating a multi-agency purchase of a small hovercraft. (E. Buorossa)
- \* Need for cross-jurisdictional coordination to monitor boating incidents: NMSB rescue or accident incidents arising from Alviso marina launches are variously handled by one of a number of agencies including: the SCC Sheriff, San Jose Police, San Jose Fire (per E. Buorossa) and Fremont Fire (per E. Mruz) Departments. Other agencies that may record incidents are the California Department of Fish and Game (CDG) and FWS Law Enforcement but these agencies are usually not first responders for public safety incidents. SCC Park Rangers handle incidents that occur within park boundaries including only a small waterway perimeter around its ramp. (M. Anderson). Each agency then maintains incident records in separate systems. Certainly the cumulative records of these agencies and perhaps of all law enforcement agencies bordering the Bay will be needed to measure the impact of Water Trail education and signage programs. That will require Water Trail facilitation of data collection.
- \* Lack of waterway maps and channel signage: Public safety officials (E. Buorossa, M. Anderson) reported that the influx of new NMSB visits has produced incidents when boaters became lost due to a lack of channel markers and/or recent waterway maps. They each expressed the belief that signage and mapping improvements were needed to reduce the number and likelihood of public safety incidents.
- \* Responsibility for removal of abandoned boats: Boats have been abandoned that needed to be removed but there was no cross-jurisdictional agreement among public safety agencies as to which among them should be responsible. (E. Buorossa).
- \* Coast Guard Auxiliary: It was reported that Coast Guard Auxiliary volunteers have been very helpful. The Auxiliary has posted someone at the Alviso boat ramp on Saturdays with the result of few if any boating incidents reported on those days. (E. Buorossa) Several issues remain: the Coast Guard Auxiliary is not trained on sensitive environmental issues and there is no one advising boaters on the other six days of the week.
- \* Public safety training on environmental law and issues: One public safety official told me that the only real solution to stranding incidents was to dredge and widen Alviso Slough. It was clear that he knew nothing about the applicable laws nor of relevant environmental conditions. It is a

concern when officials we depend on to enforce the laws are uninformed. This presents another level of education that Water Trail implementation will need, especially as and if the number of access points expand to include new public safety jurisdictions.

\* Inaccurate media reporting: A San Jose Mercury News story reported inaccurately that Alviso Slough had been dredged when in fact the only dredging was immediately around the boat ramp. As a result of the reporting error and with the lack of channel depth signage or maps, boaters launched anticipating greater channel depth with some becoming stranded as a result. While the accuracy of media reporting is out of Water Trail hands, the situation demonstrates the need for centralized, current and accurate information detailing local conditions.

The next two examples pertain to code enforcement of motorized boating but have implications for Water Trail issues.

- \* Cross-jurisdictional authorization or action: The SCC Parks Department is required by its COE permit to have maximum 5-mph speed limit signs installed along the length of Alviso Slough and at its mouth. This requirement directly addressed California clapper rail protection. But the Slough, except in the immediate vicinity of the boat ramp, is not Park land and Park Rangers are having difficulty getting the cooperation by the other land owners such that signage can be installed. (M. Anderson) This cross-jurisdictional obstacle is likely to be quite common around the Bay and may pose a vexing problem for Water Trail Sign plans at and in the nearby paddling range of many sites. There will be a need for Water Trail coordination support to expedite cooperation between the parties.
- \* New local ordinance requirements: While the COE permit required the no-wake zone on Alviso Slough, local law enforcement needed a new local ordinance in order to make that zone enforceable. It also found need, despite the existence of navigation rules, for an ordinance for boat-swamping incidents as might occur in an interaction between motorized and non-motorized craft. Neither ordinance is available as yet. These needs were not recognized nor pursued prior to opening the ramp. (E. Buorossa) If sites improve or expand facilities offered with Water Trail support, planning should include what changes may be needed by local law enforcement.

The examples above represent the brief three-month existence of one ramp but it is highly likely that similar incidents, issues and needs can and will arise at many access sites around the Bay. A program facilitating NMSB has a direct impact on public safety operations and that connection must be formally recognized by the Water Trail Strategies and Trailhead planning.

**ACTION**: Revise Strategies and Water Trail management infrastructure to directly incorporate public safety and law enforcement coordination into Trailhead planning and support.

Advisory Committee (2-50): In comments responding to the first DEIR issued for the Water Trail (CCCR letter to S. Polgar/BCDC dated June, 19, 2007), Arthur Feinstein raised concerns that the Advisory Committee inadequately represented the local NGO community involved in wetland and wildlife protection. The revised Advisory Committee of the current DEIR, does not appear to present any improvement. Of the 14 parties listed, 11 are agencies or business entities, one is Save the Bay, another is an "Accessibility expert" and one is a "Wildlife and habitat protection organization." Given the variety of sensitive wetland and wildlife issues, it is a mystery why this

Committee is limited to only one such organization. As recommended by Arthur Feinstein, this Committee should be expanded. I strongly recommend that CCCR, San Francisco Bay Joint Venture, and one or more of the following be added to the Advisory Committee: Audubon, Point Reyes Conservation Science, San Francisco Bay Bird Observatory. That combination of groups provides advisory breadth and depth as a set of NGOs with well-established, science-driven missions.

**ACTION**: Revise the Advisory Committee to include a diverse set of established local wildlife and wetland NGOs that emphasize science-based protection of the Bay's natural resources.

Recreation (3.3); The discussion of recreation omits any discussion of the different reasons people choose to enjoy the Bay in NMSB, other than as associated with the type of craft such as wind-surfing or whaleboat racing. For kayakers and other paddlers, reasons can be many: tourism, exercise, relaxation, adventure, fishing, photography, wildlife observation and perhaps more. Those differing motivations can produce different actions once on the water and the need for different educational methods such that particular user types recognize and avoid undesirable outcomes. The DEIR discussion should consider the questions of what locations and types of actions are most likely to be used by different user types. Further, it cannot afford to assume that any one type of user is adequately informed about best practices of NMSB behavior around the Bay's wetlands.

An exerciser or Dragon Boat team may challenge the open bay and prioritize speed over disturbance of wildlife. The wildlife photographer in pursuit of a good shot or a birding life-lister may choose to enter sensitive habitats. An adventurer or tourist might exit a craft to explore on land at unsafe or sensitive locations for the right to claim "been there." An example of such tourism is the ghost town of Drawbridge, visible from Coyote Creek on Station Island. In addition to the mud and railroad hazards of this area, the island includes a secondary haul-out for harbor seals and is in a rural location that is very difficult to protect. Any of these NMSB activities can occur throughout the Bay and the varied motivations of users must be anticipated.

**ACTION**: Preparatory to Trailhead Designation, the DEIR must require that the site profile user types that are likely to be attracted to use that particular launch or destination.

This section should also address the limits of visibility in the NMSB experience, especially on the open bay. The users sit very low in the water and except on the calmest of days, will rarely be able to avoid approaching wildlife in the water until being closer than almost any buffer standard discussed in the DEIR as biological mitigation. Additionally, without reference points, distances suggested as wildlife buffer zones, especially in open water conditions, will have little practical use and be impossible to enforce. These factors must be considered in order to establish effective and enforceable avoidance standards protective of wildlife.

ACTION: Create wildlife buffer standards that can be reasonably applied and enforced.

Aesthetics (3.6): The DEIR's classification of site SC2 (Alviso Marina Park) as an urban shoreline is not consistent with landscape experienced on the water. The park's predominant neighbor is the Don Edwards San Francisco Bay National Wildlife Refuge, land that the Water Trail elsewhere classifies as rural. Immediately downstream from the ramp, boaters enter miles of a channel that bisect the Refuge. Once around the first bend, boaters escape into a rural world, with surrounding levees restricting sight lines to channel vegetation, wildlife, an occasional hiker or bicyclist on top of

SWSJ-7

SWSJ-8

the levee and the skies above. Boaters can get an urban experience by heading upstream but the predominant Bay landscape is rural.

ACTION: SC2 should be characterized as an "Urban/Wildland" interface.

Land Use Planning (3.13) with respect to FWS/San Francisco Bay Refuge Complex (3-185): The discussion here applies to the regulatory setting for land planning of Water Trail facilities. Some of these facilities are or may be located near or on Refuge lands. The section discusses compatibility determinations that Refuge management (the FWS) will use to plan for any boat access built within Refuge boundaries. It does not but should include discussion that the National Wildlife Refuge System (NWRS) Improvement Act (referenced) also directs management to "ensure the biological integrity, diversity and environmental health" of the Refuge. The FWS must consider changes to conditions beyond Refuge borders. In application, the Act authorizes the FWS to limit land use decisions of nearby, upstream or upwind lands if new development or activity threatens the biological integrity, diversity or environmental health of the Refuge.

The section mentions two of the three NWRs that exist within the Water Trail and where NWRS regulations apply. The section should also mention the Marin Islands NWR.

**ACTION**: Improve the Land Use Planning section to include NWRS regulatory sphere of influence on nearby land development and to mention the Marin Islands NWR.

Stewardship programs: Strategy #22, Trailhead Stewards, suggests a need for programmatic support that does not appear to be anticipated anywhere in the DEIR. No volunteer program succeeds or survives for long without dedicated resources and structured programs. Commonly when the term "volunteer" is involved, decisions are made assuming that this free labor can be cheaply organized and with little forethought.

Volunteers come and go. They must be recruited then trained, retrained and have replacements trained. Someone must set up work schedules, be available at odd times to find replacements, and to monitor skills. Volunteers must be equipped and may need transportation. In lieu of pay, they must always feel that their work is valued. Sometimes volunteers must be fired.

As with the use of the Coast Guard Auxiliary at the Alviso Marina Park boat ramp, some organizations have volunteer programs that already can help. But can they do it all? Are volunteers of that Auxiliary able or willing to also be trained about environmental issues? From site to site, are there variations in chapters of the Auxiliary (or other groups) such that they are more or less available or helpful? As mitigation proposed by this DEIR includes use of Stewards/Docents, the question must be considered as to whether disparate groups can ensure that the mitigation standards can be met.

**ACTION**: As the DEIR specifies steward/docent use in mitigation, it must detail a Stewardship strategy that will include Water Trail support for program coordination staff, volunteer training and other needs as may be required.

SWSJ-10

Concerns raised regarding the Water Trail and this DEIR by the San Francisco Bay National Wildlife Refuge Complex (Refuge Complex):

In a comment letter to Ann Buell, SCC from Mendel Stewart, FWS, 9/10/10, the Refuge Complex raises many points that it is hoped will receive all due attention and action. It is worthwhile to consider some of those points more extensively:

Under Refuge Complex General Comments:

"There are two main issues regarding the increased use of NMSB in the bay area: 1) increased disturbance into sensitive habitats and 2) increased safety concerns for novice boaters."

The second of these concerns has been detailed herein previously in the discussion of recent experience with boaters using the Alviso Marina Park ramp. On the issue of disturbance of sensitive habitats, the FWS is uniquely qualified to provide the best guidance. It is the one Water Trail Stakeholder with mission-driven expertise for provision of public access compatible with wildlife and habitat protection. Given the sensitive wildlife and habitat conditions throughout the Bay and the multiple State and Federal laws protecting wetlands and wildlife, Refuge Complex recommendations should be given high priority for planning at every Trailhead.

Refuge Complex Comment: "How would the Water Trail provide a source and/or method of funding available to all landowners and managers to provide for site development, upkeep and maintenance (including signage, trash clean-up, education and outreach), and law enforcement/rescue? Due to complications between state and federal agencies, it seems unlikely that a funding source for increased staff could come from SCC to USFWS or other resource agency."

(Regarding the Alviso Marina ramp): "Also, although this launch is not on Refuge property, it now allows people easier access into our property, and we don't have the resources to put signs all along the slough channel to alert people to the fact that it is endangered species habitat and therefore off limits to public access."

Clearly the funding issue is very significant whether Trailheads exist on or off Refuge Complex lands. Wetlands at the Don Edwards San Francisco Bay, San Pablo Bay and Marin Islands NWRs may represent the largest land ownership within the Water Trail recreation area. Given that size, the biological sensitivity of its lands and the responsibility to protect wildlife and habitats, Refuge Complex resources may well be impacted by increasing boater activity more so than any other landowner.

This does not mean that other landowners may not be similarly impacted. The DEIR explains that Water Trail funding will be made available to Trailhead site owners. There is no DEIR resources discussion regarding support for other NMSB-impacted landowners. How do landowners like the Midpeninsula Open Space District (Ravenswood Open Space Preserve), cover the costs of expanded patrols, new equipment or their own signage? The DEIR needs to recognize resource impact (staff and materials) on agency- and non-Trailhead landowners, address it in Water Trail strategies and describe appropriate mitigation. These are significant

impacts as they have the domino effect of draining landowner resources from other, existing and equally necessary purposes or of simply degrading the lands impacted.

**ACTION**: Revise Water Trail Strategies, Trailhead planning and funding plan to address the resource impacts on agency- and non-Trailhead landowners.

Under Refuge Complex Page-Specific Comments:

"3-91 MITIGATION MEASURE BIO-M3: ESTABLISH TRAILHEAD RESTRICTIONS, PUBLIC EDUCATION, SURVEYS AND SIGNAGE"

Refuge Complex Comment: "Without increased patrol and law enforcement, there would be no way to enforce these "suggestions." Social trails would need to be inspected for more often than once a year, as by then they would be well-established and more difficult to get rid of both physically and in the minds of the people who may be using them regularly."

SWSJ-13

Signage rules that are never enforced have no teeth, in this case direction to stay on formal trails and out of sensitive wetlands. Trailhead owners and managers should inspect their sites for social trails at least monthly and install suitable fencing and signage promptly to prevent or halt damage to sensitive habitats.

**ACTION**: Revise BIO-M3 to require monthly or more frequent Trailhead site inspection to detect social trails leading to wetlands and to promptly install appropriate fencing and signage closing the trail.

BIO-M8, 3-129 "During other periods of the year and non-high-tide should not land on or disembark into vegetated marshes that could support rails."

Refuge Complex Comment: "No entry at any time of year into vegetated marshes is allowed (on Refuge property) without special permission. Better to make this a blanket year-round condition for all users of the WT as this would better protect the rails and other marsh species and habitat."

Indeed, making all tidal marshes off-limits all year is the rule that should be enacted in this mitigation. The Act establishing the Water Trail includes the direction that the public process shall make recommendations that identify "sensitive wildlife areas where access should be managed or prohibited." Thus the DEIR can be used to recommend a requirement that all tidal marshes are out-of-bounds at all times, using the criteria that (1) the Bay has just 15% of the tidal wetlands it once had, (2) that habitat loss caused the ESA status of multiple tidal marsh species and (3) species recovery is dependent on protection of 100% of existing tidal marsh lands as critical species habitat. That recommendation can be the basis of a signage and education program that can be uniformly provided around the Bay, including federally-held lands.

SWSJ-14

**ACTION**: Revise BIO-M8 to establish the standard that entry into tidal marsh habitats must be avoided universally along the Water Trail year-round.

Of the two Alternatives that would implement a project, Alternative 3 appears to be the better choice in that it would offer a more robust program of signage and education with the option to include new sites under the umbrella of its guidance. However, as comments of this letter attest, there are significant improvements needed in this DEIR to provide a basis appropriate to implementation of any Alternative.

SWSJ-15

The Water Trail is an opportunity to extend and expand the leadership Bay Area residents have long demonstrated in environmental protection. It can use the mitigation so necessary to Water Trail implementation as tools to develop a new sector of well-informed leadership among members of NMSB groups. On the water those individuals can become the most effective educative stewards, coaching one another and demonstrating that the Bay can provide the best and longest future as a recreation resource if each user carries and cherishes the mantle of wildlife and habitat protection. In the Water Trail provisions for education, signage, web sites, Trailhead stewards and the like, generation of a new sphere of wetland and wildlife advocates should be a long-term goal.

SWSJ-16

The hope is that comments provided here, from experts at our NWRs and from others invested in protection of the Bay and its shoreline will receive the full attention and action for review and revision of the DEIR. It is a further and sincere hope that this Water Trail will set standards for Water Trails everywhere, enhancing again our region's reputation of environmental leadership.

Be it a humble mouse burrowed down in the pickleweed, the occasional whale that wanders through the Golden Gate, or maybe one day a California condor soaring north from the Pinnacles, the Bay's wildlife diversity now and of the future depends on what we do today. It is a precious resource.

Yours Truly,

Eileen P. McLaughlin Shoreline Advocate

Eden & Me Langlin

cc: Florence LaRiviere, Citizens Committee to Complete the Refuge

Ann Buell Project Manager State Coastal Conservancy 1330 Broadway, 13th Floor Oakland, CA 94612

# Comments on SF Bay Area Water Trail

I have read the DREIR and have a few comments:

The fundamental problem is that most of the San Francisco Bay is not suitable for recreation by the general public in small boats.

I have reached this conclusion because I have paddled my sea kayak around the south bay and Redwood City area many times,

I have observed winds and wildlife while counting Harbor Seals in the south bay and Redwood City area every week of the year for more than 10 years for The US Fish and Wildlife Service.

I served in the Coast Guard Auxiliary for several years and patrolled the bay on weekends,

I have gone on airboat surveys with The US Fish and Wildlife Service and know about the hazards of the cold water, unexpected winds and cold temperatures.

Public safety is the greatest concern. I know from experience about the high winds and surf conditions on the bay. While in the Coast Guard I participated in rescues of canoers, kayakers and small sail boats. Some had overturned and others had been driven into the mud by winds. Increased recreational by small boat users will burden rescue agencies. The only agencies equipped to handle marine rescues are the coast guard and one or two police agencies that have a motorized boat. Also, personnel in the agencies are not trained nor equipped for marine rescue. Operation of sea kayaks, sit on kayaks, canoes and jet skis requires training in safety and rescue techniques. Un-qualified adults and children will operate small boats in unsafe weather conditions.

The bay water is COLD and immersion may result in life-threatening hyperthermia. The water temperature in SF bay is about 45 F in the winter and currently is 59 F now on August 10. Survival time in the cold water is short! See the chart below:

	Hypothermia C	hart		
	If the Water Exhaustion or Temp. (F) is: Unconsciousness			
32.5	Under 15 min.	Under 15 - 45 min.		
32.5 - 40	15 - 30 min.	30 - 90 min		
40 - 50	30 - 60 min.	1 - 3 hours		
50 - 60	1 - 2 hours	1 - 6 hours		
60 - 70	2 - 7 hours	2 - 40 hours		

Bell-1

At present, the use of small boats in SF Bay is small because of the limited number of launch sites. If more launch sites are opened and publicized and if stores selling kayaks, canoes and jet skis push for more sales and newspapers respond to their demands for publicity the usage will increase and public safety will become an increasing concern.

Transporting a small boat to a launch site will require a vehicle and travelling from one launch site will require two vehicles. Crime at the parking lots may be a problem because of the isolation of the launch sites. Police agencies are already overloaded and understaffed due to the recession and patrolling launch sites may not be possible.	Bell-2
Migrating and resident wildlife will be impacted by the increased use of small boats in the bay. In the migrating periods the center of the south bay can be covered with resting ducks. It is estimated that as many as 200,000 migrating ducks stop in the bay and eat and rest on their annual migration flights from a far away as Alaska and Siberia. The Increased use of recreational boats may disturb these ducks. US Fis and Wildlife Service and other agencies are required by international treaties to protect migrating waterfowl that cross international boundaries.	Bell-3
Here are some questions that are not addressed by the DREIR:	Bell-4
How will funding for construction and maintenance of the launch sites and parking lots and access roads obtained?	be
How does one restrict use of launch sites to non-motorized equipment? Jet skis and small outboard motor can be hand carried.	rs Bell-5
How can small boats be kept away from Harbor Seal haulout sites. Disturbances particularly during the pupping season are very harmful. Seals in the bay already impacted by disturbances and by pollution. The seals at Coyote Creek near Alviso are often disturbed by recreational and commercial fishing boats. Disturbances from small boats are also a problem now at Corkscrew Slough in Redwood City.	Bell-6
The DREIR states:	7
The California legislature established the San Francisco Bay Area Bay Area Water Trail, finding that "with loss of public open space, the public increasingly looks to the Bay, the region's largest open space, for recreational opportunities."	Bell-7
It is apparent that the legislatures have never paddled a small boat on San Francisco Bay and encountered the many safety hazards.	

Norton Bell 1805 Cowper St. Palo Alto CA 94301-3806 nwbell@juno.com, Home 650-328-8139. Cell 650-799-5203 MaDr. Rell

RECEIVED

AUG 12 2010 COASTAL CONSERVANCY OAKLAND, CALIF.

# WATER TRAIL EIR COMMENTS

Page 40

"for example, several years ago a container vessel ran into a Bay Bridge support while avoiding a sailboat (BCDC 2006b)."

I am not sure if it was the Bay Bridge- just to get the facts right....

Choi-1

Page 75 Waterfront and Water-oriented Businesses Add Responsibilities:

- Provide the perspective and represent the interests of businesses directly or indirectly associated with NMSB use
- Provide access to public through Water Trail sites (for safety, promote NBSM activities, protecting wildlife, etc.)
- Provide education, outreach, and stewardship programs

Choi-2

# Page 130

"Navigating the Bay becomes more difficult during periods of restricted visibility due to winter storms and fog."

Winter storms are forecasted well in advance, and mariners are used to dealing with them. In contrast, Tule Fog could move to the bay suddenly and reduce the visibility to just few feet. It was the main cause of Cosco Busan Oil Spill incident on 2007 November 7th. It can move fast (I have seen it blanket the bay in 30 minutes), so unsuspecting kayaker may not outrun the fog.

Choi-3

# Page 135

# SECURITY ZONES AND RESTRICTED AREAS FOR SAN FRANCISCO BAY

Certain marine events, like fireworks and Fleet Week, call for temporary restricted zones by U.S. Coast Guard. Individuals need to monitor channel 16 on VHF radio for such updates.

Choi-4

# Arthur Feinstein

Consulting for Conservation 590 Texas Street San Francisco, CA 94107 415-680-0643 arthurfeinstein@earthlink.net

September 21, 2010

Ann Buell State Coastal Conservancy 1330 Broadway, 13th Floor Oakland, CA 949

RE: COMMENTS ON SAN FRANCISCO BAY AREA WATER TRAIL PLAN DRAFT REVISED EIR

Dear Ms Buell:

Thank you for the opportunity to comment on the above referenced DREIR. I believe that the Citizens Committee to Complete the Refuge will submit separate comments from these but I was their representative on the BCDC stakeholder sessions regarding the Bay Plan and so do want to provide this short response to this document.

And it is a disappointing document that attempts to minimize potential impacts, fails to provide adequate mitigations for those impacts identified and fails to provide any real mechanism for enforcement of those mitigations.

Feinstein-1

To begin, the DREIR claims that the WT will not lead to a significant increase in NMSB traffic on the bay. This is a doubtful claim since a part of the WT project is public outreach, depicting all the WT sites on the Bay, establishing a web page and, I'm sure that WT boat launching-site members will also publicize the WT as will boat sellers and renters. How effective this will be in increasing boating is unknown but to expect it to be minimal is surely questionable. And I would assume that a CEQA document would have to anticipate if not a worst-case scenario at least a scenario of reasonably potential impacts and this would have to include a significant increase in NMSB usage due to the WT. If this is the case, then the oft-repeated argument in this DREIR that because there will not be significant increase in NMSB use as a result of the WT there will be no significant impacts that can be attributed to the WT is specious.

Feinstein-2

It was particularly shocking to see that despite a fairly good exposition on the impact of NMSBs on waterfowl, in particular on diving ducks, in Section 3.8.5 the mitigation proposed for these potential impacts was unenforceable and unsupported by any factual basis making those mitigations essentially no mitigation whatsoever.

Feinstein-3

Specifically, the only mitigation proposed for the impacts to waterbirds, and in particular

Feinstein-4

diving ducks, is in Bio M.5 that states,

"...Bio M-5 ...The WT shall develop a set of training materials that can be used to train staff of kayak rental companies and other NMSB outfitters, as well as docents, park staff, and others who may be working at trailhead locations about sensitive bird species and appropriate measures to minimize disturbance. Training sessions provided by kayak rental companies and other NMSB outfitters working in association with designated trailheads and the WT program shall include this educational component. Strategies 17, 18, 19, and 21 shall be modified to include this training and education component.""

In other words the mitigation is the distribution of educational materials and potentially training sessions at kayak renters and outfitters (who may not be at the WT trailhead).

In defense of this serving as mitigation the DREIR cites the Lafferty study on human impacts to Western snowy plovers in Santa Barbara. But that study disproves just what the DREIR is proposing as a mitigation. When signage alone was used to deter human intrusion to snowy plover nesting sites there was very little success. Only when docents were present at the site did human intrusion decline significantly. And the docents are nearly always in view of the human users of the beach and in plain view at the nesting site. (pg. 3-122)

So why should one think that signs alone at the trailhead would be any more effective than at Santa Barbara. And even if docents are at a WT trailhead, it was the physical presence of the docents on the beach that was an effective deterrent (their physical presence at the site of disturbance). With no docents on the bay where disturbance would take place one would expect no better response than if there were no docents at the trailhead.

Thus, the study used to defend the mitigation measures actually argues against that measure being effective.

Instead, effective mitigation measures should include docents on the water near where disturbances might take place. This, in turn, calls for effective monitoring of the location of diving duck rafts throughout the Bay and a mechanism for creating a docent pool throughout the Bay. But the DREIR does not propose such a management tool and mentions docents only in passing with no specificity of how they will be recruited, trained and sustained.

Feinstein-5

Seasonal closures of WT trailheads in sensitive areas would be the most effective mitigation tool. Such closures are mentioned in the DREIR but their use as a mitigation tool is only specified for harbor seals. During the BCDC stakeholder meetings the seasonal closures of sensitive areas was often discussed as a viable mitigation tool but it is distressingly absent in the DREIR, again except for harbor seal impacts.

Feinstein-6

The USGS has recently developed maps indicating the seasonal movement of diving ducks in the Bay over the winter months. These maps could be used to identify potential WT trailhead closure sites and local monitoring could then be used to ascertain which

Feinstein-7

specific sites need closure at any particular time. Considering the potential ineffectiveness of the DREIR's proposed mitigation measures, I believe it would be prudent to require WT trailhead closures for WT sites located near these rafts of waterfowl.

This would provide the most reliable and effective mitigation tool, avoiding the harm to the greatest extent possible, rather than relying on a flawed educational program for which the DREIR has provided no factual basis to indicate its likely effectiveness

The DREIR states on page 20-35 that,

"While most strategies address wildlife protection in some manner (to ensure that implementation of the strategies does not cause environmental harm), Strategies 3, 14, 15, 16, 23 and 24 specifically focus on wildlife and environmental protection. The strategies encompass a range of options for ensuring wildlife and environmental protection: design of facilities consistent with local conditions, site environmental review, monitoring of potential impacts, identification of opportunities for habitat restoration, training of local law enforcement to recognize violations of environmental laws, and potential restrictions on site use (if warranted based on the environmental sensitivity of a site). These strategies would be implemented by the site owners and operators, in collaboration with NMSB user groups, non-governmental wildlife and environmental protection organizations, resource and permitting agencies, researchers, and other interested stakeholders. (pg. 2-35)"

Feinstein-8

The DREIR does not indicate how these agencies (state, federal, local, non-profit, and private) will fund these efforts. In these days of state furloughs and agency retrenchment and scarce private dollars there is no reason to believe that any of the agencies cited will have the ability to implement the strategies, flawed as they are, to protect wildlife.

The DREIR and the WT must indicate how the proposed mitigations will be implemented in light of scarce public funds. It is not enough to simply say these agencies will implement the mitigations if it is not likely that they will indeed be able to do so. This is no mitigation whatsoever.

The DREIR state on Page 2-35,

"EDUCATION AND OUTREACH

Because the WT itself does not have any enforcement capability,13 the objectives of the WT would be achieved largely through planning, outreach, education, stewardship, and voluntary application of management strategies by land owners and managers. (pg. 2.35)

A voluntary mitigation program is an unenforceable mitigation program and one that cannot be assured of implementation, let alone success.

The DREIR and the WT must propose mitigation programs that are reasonably assured of implementation and that are enforceable.

Feinstein-9

On page 2-57 the DREIR states that,

"The Trailhead Plan would identify who (usually site owners/managers) would be required to regularly review site conditions to verify that they remain consistent with the conditions described in the applicable CEQA documentation. WT staff would track the reviews to ensure that they are occurring with the specified frequency and to identify and try to resolve potential concerns, if any. (pg. 2-57)"

This puts the fox in the hen house. It puts the task of monitoring impacts on the private and public WT trailhead managers/owners. It is obviously in their interest to not have problems that would require staff time and effort to correct. In this economic climate both private and public WT trailhead mangers/owners will be strapped for dollars. They will have an incentive to not see impacts that will result in increased costs to their operation. The DREIR says that the PMT will review monitoring reports but does not indicate how they will measure the accuracy of those reports. Trust is a great thing but not reliable and not something to rely on for mitigation.

Feinstein-10

The DREIR talks about docent programs but provides no funding for such programs and to rely on either volunteer or paid docents without identifying a funding source is clearly a flawed concept.

Feinstein-11

Thus the most basic flaw in the DREIR and the WT is the failure to identify an ongoing funding source that would allow the PMT itself to coordinate monitoring, mitigation and enforcement—absent that, it simply relies on good will and hope rather than a secure implementation process and thus the DREIR defies CEQA requirements for mitigation requirements that can reasonably be expected to be implemented and that are enforceable.

Feinstein-12

Citations as to this point include, "[M]itigation measures proposed in an EIR must be "fully enforceable" through permit conditions, agreements, or other legally binding instruments." CEQA § 21081.6(b); CEQA Guidelines § 15126.4(a)(3). Where the lead agency does not incorporate the mitigation measures into the project or require the mitigation measure as a condition of approval, the lead agency has not made a binding commitment to implement the mitigation measures. Federation of Hillside and Canyon Ass'ns v. City of Los Angeles, 83 Cal. App. 4th 1252, 1262 (2000). Uncertain, vague, and speculative mitigation measures have been held inadequate because they lack a commitment to enforcement. See, e.g., Anderson First Coalition v. City of Anderson (2005) 130 Cal. App. 4th 1173, 1188-89.

The WT is an exciting concept but one that poses significant potential harm to waterbirds and other wildlife species. It needs an effective and funded program that ensures appropriate mitigation for those potential impacts for it to be a program that does not result in great harm to the Bay and its wildlife.

Yours,

Arthur Feinstein

#### Ann Buell

From: bhuning@sonic.net

Sent: Tuesday, September 21, 2010 7:02 PM

To: abuell@scc.ca.gov

Subject: RE: Water Trail EIR comments

#### Hi Ann.

Thanks for considering my comments on the Water Trail Draft Revised EIR. It's still the 21st in Washington DC, and I'm sending to you what I compiled on the airplane. I hope it makes sense. Feel free to contact me with any questions. I'm also pasting them into this message, just in case.

Beth

September 21, 2010

TO: Ann Buell, State Coastal Conservancy

FROM: Beth Huning

SUBJECT: Water Trail Revised Draft EIR Comments

#### Dear Ann,

I have reviewed the Draft Revised EIR (DREIR) for the SF Bay Water Trail and appreciate the opportunity to provide comments. My comments do not represent any position of the San Francisco Bay Joint Venture but reflect my expertise and experience as a wetland protection/restoration program manager, former wildlife sanctuary manager, and the facilitator who developed another public access 'trail', the Central Coast Birding Trail. Because my expertise lies in these areas, my comments will address only the relevant sections of the DREIR.

#### General Comments

I have not discussed with you the need for a second Draft EIR (DEIR) and am uncertain why the original DEIR was insufficient and a new DEIR was needed. Significant scientific input and resources were allocated to the development of that document, as was the time for reviewers to comment. However, I did note the inclusion in the DREIR of some of the studies that I recommended for consideration in comments in the DEIR, and appreciate the attention given to those studies of impacts of disturbance on wildlife. This may, in fact, be a possible reason for a new DREIR.

Huning-1

I recognize the recreational and environmental values of providing access to the Bay in an organized way. If properly structured, the Water Trail has the potential to provide a quality recreational experience for non-motorized boat users as well as help control detrimental impacts on wildlife and habitat that can and currently do occur due to unguided or unmitigated use. As noted in the DREIR, the number of boaters – and consequently, the amount of impact on habitat – is certain to increase as population grows. However, the increased use of the Bay by non-motorized water craft due to increased advertising that the Water Trail has the potential for detrimental impacts upon wetland habitats and the wildlife that depend upon the Bay and its wetlands for survival. Although deemed as impractical, other mitigation measures, including removing trail site designation and enforcement, should to be considered more carefully.

Huning-2

Scientific Studies and Information - I appreciate the inclusion of research on waterbirds, particularly that of USGS and others as I suggested in comments to the 2008 DEIR. New models and research on energetics and

Huning-3

carrying capacity for waterfowl being developed now by USGS and should be considered as trail sites are designated.

Mitigation of Impacts - As in the DEIR, the proposed mitigations for impacts in the DREIR to diving ducks and other wildlife species and habitats are the typical proposals, education and signs. Education and signs, while good-faith efforts, have continually failed to address and reduce impacts of disturbance on wildlife or impacts on habitat. They do not meet the CEQA test of reducing impact levels to less than significant. Signs do not adequately mitigate impacts nor are they "in kind". Research has shown that they are of limited value without enforcement or stewardship combined with education. Not noted in the cited Snowy Plover study was the fact that it was only effective with direct human contact with potential violators and on-site human intervention. Appropriate mitigation as noted above should be identified in the Final EIR. Although the DREIR identified that managers have the options to manage sites for impacts, non-designation or removal of sites should be recommended as mitigation measures, particularly in areas used by sensitive species. More appropriate mitigation measures should include stewardship recommendations for specific sites, seasonal closures of sensitive areas, monitoring of impacts and site closures, and enforcement. These have been noted as impractical, yet they are true mitigation measures.

Huning-4

Destinations – Some of the planned destination areas are in highly sensitive areas for diving waterfowl, particularly around Pt. Pinole and San Leandro Bay. Whiles I recognize that boaters currently uses these areas, management and mitigation should be put in place, as Water Trail designation will make them more highly visible. Recent energetics modeling being conducted by USGS on behalf of the SFBJV is showing evidence that the Central Bay between San Leandro and SFO is an important wintering and foraging area all winter. Some waterfowl species such as scoters and scaup are seeing declining populations with the Pacific Flyway and on a continental scale. San Francisco Bay is the major wintering and foraging area for these species. Disturbance and loss of foraging time can alter body mass and condition, which influences survival as well as the ability to dissipate pollutant uptake while birds are in the Bay and during migration. This information needs to be incorporated into the process for determining site location and mitigation measures, including the potential for removing launch and destination sites in sensitive areas, not designating sensitive areas as part of the Water Trail, or removing designation.

Huning-5

#### Specific Comments

Endangered Species and Tidal Marsh Recovery Plan (Section 3.0, pages 112-114 - San Francisco Bay is
home to the largest concentration of listed and threatened endangered species in California. Cumulative human
impacts are the main cause, due to either disturbance or habitat degradation and loss. Section 3 notes that the
Tidal Marsh Draft Recovery Plan recommends guidelines that limited the public use to a few low-impact
locations. Yet the focus of mitigation is on education.

Huning-6

As noted in Appendix C, Table 1, the Recovery Plan identifies 6 locations where boat use is restricted or prohibited to protect the Western Snowy Plover, and one where restriction is recommended. In addition to education, a mitigation measure would be non-designation of Water Trail sites within in these areas. To achieve minimum populations sizes and reduce threats, the same applies to the recovery areas for the California Clapper Rail as well as other listed, State-identified "Fully Protected", and sensitive species identified within the Draft Recovery Plan.

2. Section 3.8.5, Impacts and Mitigation Measures – The analysis of the projected Water Trail use in the DREIR seems to be contradictory. The statement in the Executive Summary, "The analysis of potential environmental effects associated with implementation of the WT Plan is based on the increase in non-motorized small boat use that could be caused by the Water Trail" contradicts Methodology (page E-116), which states that "the development of the WT is not expected to substantially increase overall use of non-motorized boats on the Bay, but rather population growth". However, as quoted "there is potential for local increases in boating in sensitive areas of the Bay (e.g., areas where waterbirds congregate), or for the boaters who use the Bay solely

Huning-7

due to the WT Plan's outreach efforts to disturb waterbirds to some degree. Increases in NMSB use in such areas could increase energetic costs to waterbirds. At the same time, improved education of all NMSB users would counteract such disturbance by reducing the likelihood that any particular boater would disturb waterbirds."

All statements are probably correct in that boating will likely increase with both population growth and the development of the Water Trail, and as a consequence, impacts will increase. Therefore, stringent mitigation measures are in order.

Huning-8

Education is the only mitigation measure identified to reduce or remove such impacts. It was not specified how education will take place, and therefore, is unlikely to mitigate any of the noted impacts. This is not an adequate mitigation measure under CEQA. Management, non-designation, or even potential seasonal closures should be considered in specific areas. Buffer zones were identified in the research (p. 3-120) and should be considered as a management option.

2. The DREIR states, "The guiding principle of managing for human activities in areas that support important waterfowl populations is to avoid or limit overlap of human activity with waterfowl populations." While additional disturbance information is included in the DREIR, limiting human activity only seems be considered as an option by managers and not by the WT designation process. Strategy 24 recognizes that managers have the authority to periodically close or control access to sites, and seasonal closures can be included in the trailhead plan for the site. The Water Trail is non-regulatory with no authority to close sites or restrict access. However, it does have the authority to designate or eliminate sites.

Huning-9

I am pleased that the DREIR recognizes that the WT can recommend against funding a sensitive site. However, another option is that the WT can determine that an area is too sensitive and should not be identified or it should recommend removal of a site as a mitigation option. Sites need to be periodically reviewed and considered for non-funding or designation removed. This should also apply to sites adjacent to areas where waterbirds regularly concentrate for forage and refuge as noted by USGS and other studies. The most appropriate mitigation is avoidance.

#### Other Comments

As noted earlier, signs are not an effective mitigation. Kevin Lafferty's research (USGS) was included in
this DREIR, but he also documented that education only works to a point. Enforcement is necessary, and if
managers don't have the resources for enforcement due to increased boat traffic, the Water Trail should
consider funding enforcement as part of the program, as it does education, signs, and construction.

Huning-10

Habitat restoration should be considered. A lot of effort and government money has gone into the
identification, planning and restoration of wetland habitats for wildlife. This information should be
incorporated, and sites that are targeted for restoration identified and individually analyzed for potential
impacts.

Huning-11

Thank you for the opportunity to provide comments. I strongly urge you to carefully consider comments being provided by USGS and other wildlife experts.

#### Comments on the Draft Revised Water Trail EIR

Paul Kamen, August 20 2010

# 1) Effects of increased use of non-motorized boats

The overall effect of non-motorized boating has been misinterpreted by the EIR, primarily because the transfer factor has been largely omitted. The EIR neglects the extent to which the small but finite increase in non-motorized water activity promoted by the Water Trail results in a corresponding reduction in the use of motorized watercraft.

This effect should not be hard to estimate. A surprising percentage of kayakers have previous jetski operating experience, for example. Perhaps more significantly, any new participant who is tracked into one of the non-motorized water sport disciplines is far less likely to engage in a powered form of boating in the future. This has a large positive effect on health and safety in addition to environmental positives. Consider that an hour of jetski operation is 24 times as likely to result in a reportable accident than an hour of kayak or canoe operation (Cal Boating compilation, Mach 2007).

Kamen-1w

# 2) Effects of on-site storage

The positive impact of on-site storage on vehicle emissions and traffic congestion has not been adequately evaluated by the EIR. On-site storage reduces motor vehicle trips, especially trips by vehicles sufficiently large to carry watercraft. On-site storage reduces miles driven, even when the site is accessed by car, because the user does not have to divert to an off-site storage location first (e.g. a kayaker or windsurfer can go directly from work to the access site without having to go home first to get their boats and gear).

Karnen-2w

# 3) Effects of water access near the urban core

Urban water access reduces the incentives for road trips to more remote waterways. Such trips typically involve fairly large vehicles with high emissions and high carbon footprints. Reducing these trips in favor of local water access near population centers is a significant environmental benefit that has been largely overlooked by this EIR.

Kamen-3w

Appendix G attempts to estimate some of this effect, but does not consider smaller vehicle size due to shorter trips and on-site storage.

# 4) Water access and stewardship

Kamen-4w

Non-motorized watercraft, especially kayaks and canoes, tend to breed environmental stakeholders, especially birders. This social impact is difficult to assess scientifically, but there is abundant anecdotal evidence that paddlers and rowers have a far stronger commitment to shoreline habitat protection than the public at large. This effect should be considered by the EIR.

# Specific comments

## p. 2-19

"Dragon boats require a beach, boarding float or sufficient dock space to moor a 45-foot boat. Launch sites adjacent to training areas are preferred, and a dock tie space is needed."

An important factor is left out: Dragon boats, because of their narrow beam, shallow draft and very low overhead clearance requirements, generally fit into otherwise-unmarketable or unusable "inside tie" marina berthing spaces. Nearly every marina in the Bay Area could accommodate dragon boats by providing dock space with virtually no effect on revenue.

It is also misleading to refer to "launch sites" as the preferred berthing. In common usage a "launch site" implies a ramp or hoist, which is definitely not the preferred arrangement. Dock space is needed, but as noted above this is very often available for free and with no financial loss to the marina.

#### Table 3.3.2-1

How did you manage to miss Cal Sailing Club? This is an organization that has been active in the Berkeley Marina since the 1930s, currently with over 700 members, and most of its operation is devoted to sailboards or small beachable sailboats, exactly the type that might use the Water Trail. http://www.Cal-Sailing.org.

You also missed the Berkeley Racing Canoe Center, http://www.BerkeleyRCC.org, although there is large overlap with the DragonMax dragon boat team.

# Appendix H item 28:

Kamen-7w

Kamen-5w

Kamen-6w

"Education and outreach materials should encourage awareness of climate changes and actions that individual boaters can take to reduce their carbon footprint (e.g., carpooling to the trailhead, boating closer to their homes, using nonmotorized boats instead of motorized boats, etc.)"

There is little evidence that education is the most cost-effective way to promote these actions. Implementation of the Water Trail, even in the absence of pro-active education policies, will provide strong logistic and financial incentives for behavior that reduces carbon emissions.

"For the sites accessible by public transportation, provide boat storage, if possible, to encourage boaters to use public transportation and reduce vehicle trips."

This recommendation should not be limited to sites accessible by public transportation. Even when a site is far from public transportation, on-site storage saves miles driven (e.g. work-to-site instead of work-to-home-to-site) and also promotes access by bicycle or by a smaller vehicle (e.g. smart car instead of the usual SUV or van).

"Include information in the WT literature (brochure, guidebook, and map) about carpooling, using public transportation, bicycling, and walking to WT sites as a means to reduce GHG emissions and to reduce other air emissions."

Does anyone seriously believe that this will be new or useful information to the primary demographic of Water Trail user? It is more cost-effective to direct these resources towards actually providing tangible incentives for behaviors that have favorable environmental impacts.

It is likely that required educational enhancements will increase costs, complicate planning and obstruct implementation of the many tangible incentives inherent in Water Trail facilities, with a net negative effect on environmental quality.

### Summary:

The detailed environmental review and subsequent educational enhancement called for by this DEIR, applied to sites that pose no significant negative impact, will make the Water Trail trailhead designation extremely unattractive to most site managers, whether public or private.

Kamen-8w

The time, money and planning effort required for establishing new sites, even where no significant negative impact has been demonstrated, will effectively obstruct new sites from being developed in the foreseeable future, if ever. The benefits of the Water Trail to shoreline habitat protection, to air quality, to congestion relief, and to quality of life will be lost.

This DEIR, by delaying, complicating and obstructing the Water Trail, will have a far greater negative environmental impact than anything ever proposed as part of the trail itself.

Comments Recorded from Paul Kamen at CEQA Public Hearing for Draft Revised Environmental Impact Report on the San Francisco Bay Area Water Trail Plan, August 24, 2010, Ferry Building, San Francisco:

I'm very disappointed by the, by what appears to be the sum total of the Draft EIR. Trying to think of this from the perspective of a site manager or a site administrator, it looks like if I want water trail designation, it suddenly imposes a whole raft of new restrictions on what I can do to improve the site. For example if I have a marina and I want to add a rack for kayak storage possibly as a, as a revenue source or to help fulfill the goals of the Water Trail, suddenly I'm subject to review at various levels, mandatory education systems and it looks like a bureaucratic hassle that will obstruct implementation of improvements that will fulfill the goals of the Water Trail. Another example of a high opportunity site would be a historic ship, certainly a destination site but historic ships have the very unique advantage of allowing, in most cases, of allowing overnight camping in a place where there are no neighbors to complain. They already do that. They're usually in industrial settings, they're tailor-made to be overnight stops in the Water Trail but if I do that and want the Water Trail designation just to put in a float and a gangway, suddenly I'm subjected to the review at the various levels and I don't see what would motivate me as a site operator to go through the trailhead designation, and so I'm afraid the net effect will be fewer trailheads than more, under this mandatory environment-education component; furthermore, my understanding of CEQA is probably incomplete but unless you show a negative environmental impact, I don't think there is any standing to require me to get any measures. The wording of potential significant impact, I don't believe is enough to mandate these features. Uh, and finally I think the EIR, excuse me, the draft EIR, understates some of the positive benefits of the Water Trail in terms of the, various environmental metrics, on-site storage is one of the most conspicuous. It reduces the size of the vehicle, it allows for nonmotorized or mass-transit access and even with the same-sized vehicle driving to the site it reduces the number of miles driven because users can go straight from work to the site and not go home first to schlep their kayak down to the water. It allows close-in urban recreation instead of driving to some distant lake which is a huge benefit in carbon footprint and probably most important and maybe most difficult to measure, it encourages transfer from motorized watercraft to non-motorized boats with significant safety benefits, public health benefits, etc. etc. You know, I think we all know what they are but, but there's no attempt to quantify them in the draft EIR and balance them against, against the fairly subtle negatives and I think they would outweigh those negatives by a large margin. Bay Access and the kayaking and, and small boat community, as a whole I think, put a lot of faith in the Coastal Conservancy to promote the Water Trail as the legislation intended and I have to say we're, that faith has been shaken by what we're reading in this document.

Kamen-ly

Kamen-2v

Kamen-3v

Kamen-4v

Comments Recorded from Jim McGrath at CEQA Public Hearing for Draft Revised Environmental Impact Report on the San Francisco Bay Area Water Trail Plan, August 24, 2010, Ferry Building, San Francisco:

My name is Jim McGrath. I'm a Board Member of Bay Access and the San Francisco Board Sailing Association. After the Bay Access Board meeting last week, it was pretty clear that the users are very unhappy with the draft EIR and I've been struggling with a way to frame comments that are constructive. It's clear to me that the Conservancy staff and the consultants tried hard to find a more balanced approach burdened by the first job of any preparer of an EIR to make sure you don't miss a significant impact. It's also clear that the authors of the EIR understand both the number of new users likely to recreate on the Bay due to designation of water trail sites will be very small and that the stewardship and education will only be possible and beneficial through designation of trail sites yet what you've come up in a result that is so cumbersome as to be unworkable. The program's expensive, well in excess of what could or should be required and tied to a direct access, and kind of wondered, how much value there is in staying the course. I thought of my conversation with Loni Hancock who was then my assemblyman when I thanked her for her efforts with the Water Trail and she was very proud of her bill and pledged her help in securing funding, yet, we, here we are after five years of planning with a prescription for more planning before any sites are designated or funded, a mechanism that might opt any of the sites out, require trail head plans, yada, yada, yada, a seemingly endless planning process before any new sites are developed. Then I reread the Act and I was struck with, really struck with a clarity of the standard of the Act to make sure that any funded project not have a significant adverse impact on sensitive wildlife areas. The Conservancy was given authority to make grants before the plan was completed and specifically directed to give priority projects that can be implemented in a timely manner. It seems that we've slipped quite a ways from that guidance. A number of years ago Bay Access published a map showing 86 of the existing, uh, access points in a prospectus supporting a broad network to allow a virtual trail, in fact, over by the last count that I heard, 160 existing sites are now used by motorized and non-motorized boating. These sites were developed by local government and entrepreneurs with none of the red tape that's now proposed. For the CEQA process to be done properly, these sites should properly have been within the baseline of the revised EIR, they are part of the setting, um, I understand that you're charged with looking at stimulation but we believe that user-group and industry promotion of the value of paddling are the primary factors driven there. There are dozens and dozens of websites, um, there are dozens and dozens of interest groups that promote non-motorized boating. The idea that somehow the sanction of this by the Conservancy would have this amount and then the impacts of which the EIR admits are overstated falls really into the realm of speculation which is an important term. We'll submit detailed comments on the EIR providing detail on how the document uses speculative reasoning to create this potentially significant. impact, exaggerates the impact, the biggest example is using a 250 meter buffer to assess impacts. I mean, I can't even see a bird at 250 meters, misuses the threshold of significance and overstates any conclusion that can reasonably be reached. In effect, particularly for the rafting birds you used a noimpact standard rather than a no-significant impact standard and we think that's a pretty serious shortcoming. But with that, I think that things can be fixed and it's nice to see Richard Skaff here because I think his interest falls into the first. First expand the concept of the enhanced Water Trail plan alternative to include all existing sites, identified by users, where designating the site as part of the Water Trail would not increase capacity. That means if there's a grant to improve access for people who have compromises in their mobility, it doesn't have to wait for a water trail plan, a trail head plan, it means that we can extend the benefits with the categorical exemption as a legislature and as the, as CEQA intends,

McGrath-1v

McGrath-2v

McGrath-3v

McGrath-4v

McGrath-5v

McGrath-6v

um, CEQA exempts minor alterations of existing facilities involving negligible or no-expansion. That applies to all the existing sites. Second, select that alternative, select an expanded alternative so that the education benefits can be applied to all the places. Um, right now I'm faced with wind surfers and kite surfers using sites that they probably shouldn't, um, those sites are not on the Water Trail. How can we get an education process if we ignore what they're doing and if we take 5, 6, 7, 8 years to plan any new — sites. Third, eliminate the subsequent round of reviews and planning for existing sites, including the requirement for trail head plans, mitigation, unless the Conservancy determines that there are unusual circumstances, that's the only reason under which the CEQA exemption under 15301 cannot be applied. It should be applied to all those existing sites. Finally, make the education and stewardship programs Conservancy programs. We support those programs but we see no nexus that can require them or say that nothing can go forward in terms of the Water Trail until they are in place. We will submit detailed comments, um, I think it's fixable but I think you dramatically overstated the impacts and um, that's just not a fair analysis.

McGrath-7v

McGrath-8v

McGrath-9v

McGrath-10v

# Comments on the Revised Draft EIR for the Bay Area Water Trail

September 21, 2010

To: Ann Buell, Project Manager Coastal Conservancy 1330 Broadway, Suite 1300 Oakland, CA 94612

From: Paul Nixon 163 Fair Oaks Street San Francisco, Ca. 94110

Introduction. The following comments are based on my experiences with many dedicated citizens, site managers and agency personnel in the San Francisco waterfront area from Pier 5 to Candlestick Park. During the last 10 years I have been associated with the Port's Central Waterfront Advisory Group, Bay Access, and the Blue Greenway.

My interest in the Water Trail began when I became a member of the Port of San Francisco's Citizen's Advisory Group for Pier 70 around 1998. At that time a group of us had been asked by the house boaters in Mission Creek to advocate for a kayak launch in the Creek. We had spoken at a joint meeting of the Port Commission and the Redevelopment Agency about this matter and later were invited to be members of the Pier 70 group. This group is now known as CWAG, the Central Waterfront Advisory Group.

The Redevelopment Agency was in favor of the kayak launch in Mission Creek, but had some reservations about its eventually operation. We all agreed that UCSF's outdoor program should be involved in the venture. So for some years I was the unofficial middle man between the Agency and UCSF. In the end, 10 years later, everything turned out well. The house boaters, the Agency, UCSF, and the local kayakers were satisfied with the launch and boathouse in the context of the Sports Park and UCSF Outdoor Programs. During this period of time the houseboat association also advocated for wetland and bird protection measure within Mission Creek. Both the launch process and the environment process were harmonious and successful because the houseboat people involved were both boaters and environmentalist.

I first viewed San Francisco from the bridge of a submarine during a Fleet Week in the 1950's. Upon discharge in 1957 I came here to attend USF and make my home in this wonderful city. There were a lot of maritime people in San Francisco then - longshoremen, merchant mariners, sailors from Treasure Island, fishermen - who knew the Bay and planned their days around flood and ebb tides. In the 50's a group like we see today living on the houseboats in Mission Creek was not unusual at all. San Franciscans all knew how to spell "water". In the 10 years that I have spent advocating for the Water Trail I have found it difficult to encounter such people. Experiencing the waters of the Bay really shouldn't make any difference, but it does. Those who understand the Bay Waters have a special grasp of San Francisco Bay. They understand why a trail for Non-Motorized Small Boats is a great idea.

The Southern Waterfront of San Francisco, from Mission Creek to Yosemite Slough, is home to many people who share a vision of the Bay as a place to live in, swim in, fish in, go boating in and work in as well as an area with a fragile environment to be protected. There are no conflicts between industrial, recreational, and wetland uses because these uses have always been mixed together as they are today. For some years now a bird refuge has co-existed on the Bay end of Islais Creek while outrigger canoes and kayaks ply the waters to and from Islais Landing.

There are many special neighborhoods along the Bay that I have come to know from the Bay Access annual Sojourn. North Beach, San Pablo Harbor, Sausalito, Corte Madera and Red Oak Victory Ship come to mind. I have worked with not only the houseboat association at Mission Creek, but also the Friends of Islais Creek, the Indian Basin Neighborhood Association, the Blue Greenway. Others in Bay Access have worked with neighbors in Corte Madera and Richmond. People who live near the water want access to the water. They want boating, fishing and swimming. The signs that say "Don't Walk on the Grass" have largely disappeared from park, but the Bay doesn't have signs because rip rap, hard edges and overdevelopment keep people out of the water.

The Water Trail hopes to allow people "to enjoy the historic, scenic and environmental richness of San Francisco Bay through continuous, multiple-day and single-day trips on the Bay." Since this is the purpose of the Water Trail it would seem that the document which establishes the trail should work toward the fulfillment of the hopes of the people of the Bay Area to enjoy all of the above. In its broad outlines the draft document seems to attempt to do that which would insure the creation of a viable trail. My fear is, however, that the details that are required at the level of site management will in fact obstruct the process of creation of a trail because the individual site managers will find the requirements onerous to such a degree that no one would want their site to be designated a part of the trail.

Nixon-lw

My experience with the Mission Creek launch, the Islais Creek Landing and the planning for India Basin suggests that anything which works against the collaboration of different groups would have the effect of killing the whole project. During the BCDC Stakeholders Group planning process, the original concept of simply applying signage to existing High Opportunity Sites was made because it was practical solution to a complex problem. At that time, when there even may have been ways of funding extensive studies of sites, it was decided to accept the existing situation. Today there is no funding available to do intensive studies of sites and there will be none in the near future. The draft says that studies have to be done and in effect puts all the work of doing it onto the site managers. The revised draft fails totally to recognize the economic realities of today.

Nixon-2w

Let's take the example of Aquatic Park in San Francisco. The boating and swimming clubs have been there for over 130 years. Now someone is supposed to do a study to find out if this is a good idea. I think, and I'm sure most San Franciscans would agree, that if it has been this way for over 100 years, it must be good. In this particular case, the site manager, the Maritime Museum, might have the funds and resources to do the study, but why? It other cases were the tax base is simply a county or a city, it is unrealistic to expect funding to be available.

Nixon-3w

It takes a lot of time and effort and usually lots of money to create a launch site unless a beach is available. I have witnessed the problems that Catellus overcame in building the Mission Creek launch, the struggle of Port of San Francisco has maintaining Warm Water Cove and Islais Landing, the hassles that the developer of Piers 1 1/2, 3 and 5 has had to endure simply because as a boat person he wanted to create a public boat dock near the Ferry Building and encouraged non-motorized small boats to use it. Managers of Water Trail Sites have enough problems to deal with. They are going to shun the idea of the Water Trail simply because they don't have the time or resources. If there is to be a Water Trail, the Coastal Conservancy needs to go back to the original plan which came out of a long and arduous study at BCDC with many stakeholder groups. That plan suggested immediate signage on the High Opportunity Sites since they needed nothing more. We know the tax payers will not accept the addition burden of more studies, so to demand studies of sites is simply a way of killing the reality of a Water Trail.

Nixon-4w

Comments Recorded from Paul Nixon at CEQA Public Hearing for Draft Revised Environmental Impact Report on the San Francisco Bay Area Water Trail Plan, August 24, 2010, Ferry Building, San Francisco:

Paul Nixon, Bay Access, Official Comments: I'm mainly concerned for people like Simon here, who, out of the goodness of his heart put in a public dock and then had a lot of trouble with the public dock and now it sounds like we're going to have some more red tape for him, some more papers to fill out if he's a destination site, um, I'm concerned for the people who work for the Port, in the last few years everyone at the Port has taken on more and more jobs, um, they don't have time to go through all of this stuff that's being required. These are the people that I have to deal with on a daily basis in terms of the Water Trail. Um, I mean, I think it would be all right over there at Crissy Field. I mean they've got lots of employees. They can fill out papers like mad and do surveys and everything you want. I mean that doesn't seem to be a problem. Aquatic Park, you know, once they stop laughing at you because you're saying "we want to designate you a Water Trail" and they say "we don't remember what that is; we've been here for about a hundred years and we don't understand that" and then you say, and then you talk about the birds on the other side of Alcatraz and then they'll say "well, um, we've been here for a hundred years - I guess if those birds wanted to go somewhere they would of gone already. I mean so anyway, we won't talk about those and if you go around here to the other side of the Bay, you get, um Southern waterfront. You've got Pier 52 and again this is the Port and again the Port doesn't have a lot of time to do a lot of things, um, I mean they have huge projects, you know. The developments they're doing - they're huge projects. This is just such a small thing and then, uh, you get down to India Basin and if you get down to India Basin, it's going to be either, um, um, Park and Rec, or Rec and Park, excuse me Rec and Park, or it's gonna be the redevelopment agency. Now, Rec and Park every year get - loses more money on their budgets and they have less people to do the work, this is a tiny pitiful [?] piece of concern for Rec and Park. They got parks all over the city and we're asking them to worry about this little plot of sand that's six by six and how many papers are they gonna fill out in order to get that designated a Water Trail and then the bathroom, oh the bathroom, you know, it's all about bathrooms. That's the whole thing of all trails- about bathrooms. It's a way of getting more bathrooms around the Bay, so I don't know. I mean Candlestick, by the time we get down to Candlestick Park. I think we'll be ok again because they seem to, they've been doing some long term planning for Candlestick Park but I really think that you've gotta consider the people, especially the private people like Simon. He's a business man, you know, he's got a lot of things to do. He's not going to be filling out surveys. What happens if we keep going down to Sierra Point and Oyster Point and Coyote Point, you know? I don't know why we just can't stick with the thing, just put up signage and that's it because I don't think that anything else is going to work. It's just not going to work. Nobody is going to take the time to do it because no one has the time to do it because budgets are being cut everywhere and because this is a economic crisis we're in and it's not reflected in this whole thing. Ok, (laugh). Thank you for listening to me.

Nixon-1v

Nixon-2v

Nixon-3v

#### Ann Buell

From: Sent:

Matt Leddy [mtleddy@sbcglobal.net] Tuesday, September 21, 2010 3:12 PM

To:

abuell@scc.ca.gov

Subject:

Comments on Water Trail DREIR

September 21, 2010

TO: Ann Buell, Project Manager State Coastal Conservancy

RE: Comments on Draft Revised EIR for Implementation of the

San Francisco Bay Area Water Trail Plan

Thank you for the opportunity to review and comment on the revised DEIR for the San Francisco Bay Area Water Trail Plan.

My comments pertain to the Water Trail Backbone Sites in the Redwood City area of the Water Trail Plan. Table 2.3.2-1 and Figure 2.1.4-1B indicate two existing launch sites and one planned launch site in this area that have access to the bay:

Redwood City Municipal Marina - existing Docktown Marina - existing Westpoint Marina - planned

I would like to call your attention to a fourth launch site planned for the Redwood City area. On July 20, 2010, the Redwood City Planning Commission approved a Planned Community Permit for the One Marina development project. This project includes construction of 231 housing units at 650 Bair Island Road in Redwood City. The project plans call for the construction of a small Marina Park with a public "hand boat launch" next to the 14-acre existing marina basin that connects to Redwood Creek. More detailed information on this planned launch site can be obtained from the City of Redwood City.

With this additional launch site at One Marina, there will be a total of four launch sites in the near future with access to the adjacent marshes and sloughs of the USFWS Bair Raabe-2 Island Wildlife Refuge. As indicated in the BCDC map Figure 8.1.f. Central Bay South, Bair Island is a "Sensitive Wildlife Area with Limited or No Boating Access". The map has two "protected species" symbols on Bair Island: CA Clapper Rail and Harbor Seal Haul Out. Additional nearby housing (in an already highly urbanized area), combined with easier and more convenient small boat access to the bay, will most certainly increase the potential for adverse boater impacts on wildlife.

I believe the mitigation measures outlined in the revised DEIR to protect sensitive biological resources in the bay are too broad. Measures should be more specific as to who is responsible for monitoring these potential impacts, and specific funding resources

Raabe-1

should be identified to augment public agency enforcement when and where it is needed.

Sincerely,

Gail Raabe

275 D Street Redwood City, CA 94063

## Ann Buell

From: Sent: Richard Santos [rsantos@valleywater.org] Monday, September 20, 2010 7:49 PM

To:

'abuell@scc.ca.gov'

Subject:

Alviso Marina

Please include the Alviso County Marina as a "High Opportunity Site". The Alviso Marina was a valuable port in 1852 that started the economic development of Santa Clara County. The Alviso Marina is being looked at as a possible Emergency Port as to save many lives during a South Bay disaster. The Alviso County Marina is the welcome point to enter the 15,000 acres of salt restoration and a place for all to enjoy. The Salt restoration is the biggest project west of the everglades and a great place for recreation enjoyment. Also there are some great bay trails that pass through and around the Alviso County Marina.

Santos-1

Sincerely

Richard P. Santos

Comments Recorded from Richard Skaff at CEQA Public Hearing for Draft Revised Environmental Impact Report on the San Francisco Bay Area Water Trail Plan, August 24, 2010, Ferry Building, San Francisco:

I have been fascinated by the earlier comments, one commenting on the over-regulatory efforts and having been involved in this kind of planning in the past I understand the feelings. However, looking through the Draft Revised EIR and the Plan itself, what we're facing is both access points and destination points that we have presently where - and it doesn't provide any of that information in the EIR as I see it in the Draft EIR - we have all these sites presently with no access. I can't speak to one site that I know of in the San Francisco Bay either that has in the past been approved by BCDC or other federal or state agencies that has provided access so I'm feeling that we need to have a more aggressive oversight of the process to assure at least in the area of physical access to the Bay that a whole portion of our population not continue to be excluded which we have been up to this point and which I will no longer accept. BCDC is now looking at their role in permitting projects around the Bay and the way they've done it in the past and at the interpretation of the McAteer-Petris Act, which many in the past have thought meant well if people can get to the site that meant access for the public. Well, it may mean that for most of the public, but for those of us with mobility disabilities or other types of physical disabilities it has meant total exclusion in most cases. So I'm not so sure that this process that is happening right now, although I'm not satisfied with it, is something we shouldn't be having. I'm clear that this EIR, and I don't want to say completely misses the analysis of the effect of this program on people with disabilities but it sure doesn't go very far to investigate where we are, the effects of what the plan is, and how that relates to us and to the environment that we are having to deal with. So I'm not sure that I would suggest that we need to move this along faster, in fact I'm a little concerned that this has moved along without - and I've looked at the membership of the advisory board that participated in the Plan, and there's nobody there that I can see, no names that I can see that include anyone with any background on access for people with disabilities. So I'm thinking that we need to spend a little more time correcting both the Plan and the Draft Revised EIR to assure that they are more inclusive and recognize not just the regulations and - by the way - as it stands now the present Draft Revised EIR - boy that's a mouthful, only speaks to federal regulations. It does not speak at all to state guidelines or state code or state regulations. In the discussion of accessibility there's a section that talks about the Americans with Disabilities Act. That section should have included all of the state codes and regulations relating to accessibility as it relates to small boat access. With that, I'm pleased to see finally that there is a more formalized interest and plan for small boating. This - We have a huge number of people that access the Bay presently with not very good - in fact really lacking - facilities, and, it's really nice to see that somewhere somebody is thinking that we need to take this more seriously and develop a Bay plan that will truly serve all of those folks and I think the gentleman that is walking out right now is one of those that recognize it and thank you very much - I wanted to compliment you and say thank you. So, with that I will stop but I'm hoping that in the future as this moves forward - the program moves forward - that people with disabilities that understand what the needs are of the community and how to best serve the community are included in the process. Thank you. And thanks for your work.

Skaff-1

Skaff-2

Skaff-3

Skaff-4

Comments Recorded from Casey Walker at CEQA Public Hearing for Draft Revised Environmental Impact Report on the San Francisco Bay Area Water Trail Plan, August 24, 2010, Ferry Building, San Francisco:

A lot of faces, it's been awhile since I've seen some of you. I remember when Paul and I were thrilled because we had a meeting with Joe LaClair, and how Laura used to commute Paul and I being long time San Franciscans, we could actually go over because Laura would let us use her conference room in sunny Oakland. It's good to see and thank all of you for your dedication over all these years towards the trail, these are public comments, yeah,. As being at the kitchen table that started the Water Trail I've always been the beneficiary of having smarter and more dedicated people around me, um, people like Jim McGrath lately and Paul, the two Pauls, uh, so I'm not going to um, particularly speak in reaction to the EIR although I have received from my fellow boardees, I think 22 pages worth of comments that we are working out for a unified response, um, but I'm concerned that we get our Water Trail designated cuz we're losing our user group, um. In 2001, I attended a conference, the North American Water Trails I think it was, now a defunct organization, but those people had known what it takes to build community water trails and it was a community vision and I'm afraid we're losing that community of users that is out there and we need to get a trail designated as soon as we can. It is those users who are going to be able to give your education and all those things in mitigation that's gonna make for our enhanced Water Trail option but the Water Trail is starting to become a failed brand, it's been five years since the law was passed, people don't ,you know, know what has happened in that time: where's the Water Trail?, how come there's no signs to it?, what are you guys doing? You know, why should I give your Bay Access organization money because nothing seems to be happening and I'm afraid that the reactions coming out of small boaters over this EIR are gonna turn the Water Trail concept from a positive thing to a negative thing and that's the worst of all results. So, like I say, this, I'm surrounded by better minds who are uh, uh, so experienced in the planning process, umm, I have frankly kind of written my involvement in the planning process off and concentrated on the strength of our organization trying to keep my diverse and well-educated board motivated and envisioned toward what we're accomplishing. Um, but I hope that soon we can designate a, a trail and sites, so we can begin to build that Water Trail brand- back up like flying organizations, like the Main Island Trail Association that hosted that first conference nine summers ago. Thanks for the time.

Walker-1

4	MITIGATION MONITORING AND
	REPORTING PROGRAM

TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM						
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements	
Rec-M4A	Web-Based Comment Form	Upon adoption of Enhanced WT Plan; prior to official TH designation	WT Staff	Comment form developed and available on WT website prior to or at the same time as official designation of WT site.	WT Staff to report to PMT prior to official TH designation, confirming mitigation is complete.	
Rec-M4B	Conduct Recreational Use Evaluations and Develop/Implement Adaptive Management Recommendations if User Conflicts Occur	Following official TH designation (when user conflicts are observed or reported)	Site Owner/ Manager	WT Staff to check in annually with site owner/manager; WT Staff to follow up with site owner/manager if web-based comment form identifies user conflict.	WT Staff to report to PMT when user conflicts are identified and actions are being taken. Results of actions are also to be reported, when available.	
Rec-M4C	Safety Signage	Prior to official TH designation	WT Staff; Site Owner/ Manager	WT Staff to verify appropriate signage has been installed prior to official TH designation, including web link(s) for more information, as appropriate to the site.	WT Staff to report to PMT prior to official TH designation.	
Nav-M1A	Develop and Implement Safety Signage	Prior to official TH designation	WT Staff; Site Owner/ Manager	WT Staff to verify appropriate signage has been installed prior to including site in WT.	WT Staff to report to PMT prior to official TH designation.	
Nav-M1B	Sponsor WT Training and Education Programs	Prior to official TH designation; on-going	WT Staff	WT Staff to verify that links to web- based information are available, and provide on-going coordination with site owners/managers, boating clubs, outfitters, and other appropriate organizations to track types and extent of safety education provided.	WT Staff to report to PMT prior to official TH designation; WT Staff to report on on- going efforts annually.	

	TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM						
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements		
Nav-M1C	Design of WT Sites near Commercial Shipping and Ferry Terminals	During TH designation process (design)	Site Owner/ Manager	WT Staff to verify that site planning and design has clearly separated commercial and NMSB boat use to the degree feasible.	WT Staff to report to PMT prior to official TH designation.		
Nav-M1D	Planning of Wildlife Buffer Zones	During TH designation process	WT Staff	WT Staff to verify that any wildlife buffer zones defined for a site do not create safety risks to boaters.	WT Staff to report to PMT prior to official TH designation.		
Aesth-M1	Include Visual Characteristics and Site Relationships in Design Guidelines and Trailhead Plans	During development of TH Design Guidelines, and during TH designation process	WT Staff	WT Staff to ensure that TH Design Guidelines address specified design relationships, and that TH Plans incorporate the required design relationships (as applicable)	WT Staff to report to PMT on Design Guidelines, and on TH Plan conformance with specified design relationships prior to official TH designation.		
Bio-M1	Conduct Education and Spread-Reduction Efforts	Prior to official TH designation; during TH designation	WT Staff; Site Owner/ Manager	WT Staff to verify that required information has been integrated into educational material and that required language has been included on signage, where needed. WT Staff to verify that Site Owners/ Managers have been informed about and encouraged to join the Early Detection Network.	WT Staff to report to PMT on educational materials prior to official TH designation, and on signage and Early Detection Network prior to designation of specific sites.		

	TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM						
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements		
Bio-M2	Conduct Surveys, Adopt Avoidance Measures, and Instigate Compensatory Mitigation	During TH designation (design) process; during construction	WT Staff; Site Owner/ Manager	WT Staff to verify that 1) TH designation process includes assessment of potential impacts to wetlands, 2) design of facility improvements avoids wetlands to the degree feasible, and 3) compensatory mitigation consistent with permit requirements is implemented, if needed. Site Owner/Manager to verify that contractor complies with construction requirements to avoid or minimize impacts to wetlands.	WT Staff to report to PMT prior to official TH designation.  Contractor to report to Site Owner/Manager.		
Bio-M3	Establish Trailhead Restrictions, Public Education, Surveys, and Signage	Prior to official TH designation; during TH designation process; following official TH designation	WT Staff; Site Owner/ Manager	WT Staff to verify that potential presence of sensitive wetland vegetation near site has been evaluated. WT Staff to verify guidance to discourage landings in sensitive habitat has been developed. WT Staff to review access routes and boat launch design to ensure compliance with this mitigation measure. WT Staff to verify that Site Owners/Managers conduct inspections with the agreed-upon frequency and appropriate follow-up, and that Site Owners/Managers track site use, and conduct surveys as needed.	WT Staff to report to PMT on public education, conformance with guidance, evaluation of sensitive wetland vegetation, and review of access routes/boat launch design prior to official TH designation.  Site Owners/Managers to report inspections to WT Staff annually. WT Staff to report to PMT on inspection and tracking efforts annually.		

	TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM						
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements		
Bio-M4	Conduct Surveys, Adopt Avoidance Measures, and Instigate Compensatory Mitigation	During TH designation process (design); during TH construction	Site Owner/ Manager	WT Staff to verify that 1) required surveys have been implemented, 2) facility design minimizes impacts to sensitive plants, and 3) compensatory mitigation consistent with permit requirements is implemented, if needed. Site Owner/Manager to verify that contractor complies with construction requirements to avoid or minimize impacts to sensitive plants.	WT Staff to report to PMT prior to official designation and after designation, if appropriate. Contractor to report to Site Owner/Manager.		
Bio-M5	Avoid Disturbance of Rafting Waterfowl from Roosting or Foraging Habitat	Upon adoption of Enhanced WT Plan; prior to official TH designation; on- going	WT Staff; kayak rental companies and other outfitters	WT Staff to verify educational materials pertaining to buffer distances are prepared and disseminated. WT Staff to verify training materials pertaining to buffer distances are prepared and provided to kayak rental companies and other outfitters, and that buffer distances are included in training sessions.	WT Staff to report to PMT prior to official TH designation; WT Staff to report on ongoing efforts annually.		

	TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM						
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements		
Bio-M6	Avoid Disturbance of California Brown Pelicans From Roosting and Foraging Habitat, and Disturbance of Water Birds from High Tide Refugia	Upon adoption of Enhanced WT Plan; prior to official TH designation; during TH designation process	WT Staff; Site Owner/ Manager	WT Staff to verify educational materials pertaining to buffer distances and value of high tide refugia are prepared and disseminated. WT Staff to verify brown pelican roosting sites are addressed as potential sensitive habitat during TH designation process.	WT Staff to report to PMT on educational materials prior to official TH designation; and on consideration of roosting sites prior to designation of specific sites.		
Bio-M7	Avoid Disturbance of Bird Nesting Habitat	Upon adoption of Enhanced WT Plan; prior to official TH designation; during TH designation process	WT Staff; Site Owner/ Manager	WT Staff to verify educational materials pertaining to buffer distances are prepared and disseminated. WT Staff to verify signage is provided at TH sites where nesting bird colonies are particularly susceptible to disturbance.	WT Staff to report to PMT on educational materials prior to official TH designation; and on consideration of nesting birds prior to designation of specific sites.		
Bio-M8	Avoid Disturbance of California Clapper Rails and California Black Rails	Upon adoption of Enhanced WT Plan; prior to official TH designation; during TH designation	WT Staff; Site Owner/ Manager	WT Staff to verify educational materials pertaining to buffer distances and related avoidance measures, and prohibitions on entry into habitat are prepared and disseminated. WT Staff to verify required signage is provided at TH sites where California clapper rail and black rail are particularly susceptible to disturbance.	WT Staff to report to PMT on educational materials prior to official TH designation; and on implementation of signage prior to designation of specific sites.		

	TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM						
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements		
Bio-M11	Avoid Disturbance of California Clapper Rails and California Black Rails due to Construction Activities at Launch Sites	During TH designation process; prior to/during construction	WT Staff; Site Owner/ Manager	WT Staff to verify required surveys are implemented, and construction schedule conforms to protection requirements, including avoidance of construction during extreme high tides.	WT Staff to report to PMT prior to official TH designation. Site Owner/Manager to report construction contract language to WT Staff prior to start of construction.		
Bio-M12	Undertake Avoidance Measures	Prior to official TH designation; during TH designation process; following TH designation	WT Staff; Site Owner/ Manager above	WT Staff to verify educational materials pertaining to sensitive marsh species, appropriate avoidance measures, and risks of getting stuck in the marsh [or mud] at low tide are prepared and disseminated. WT Staff to verify that required language has been included on signage, where needed, and docent program has been implemented, where needed.	WT Staff to report to PMT on educational materials prior to official TH designation; and on implementation of signage and docent programs prior to official TH designation.		

	TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM						
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements		
Bio-M14A	Review Improvements at Certain Sites and Implement Education and Outreach Educate NMSB Users in Vicinity of Pupping Sites	During TH designation process	WT Staff; Site Owner/ Manager	WT Staff to work with site owner to evaluate whether improvements may attract more users than nearby sensitive resources could tolerate. WT Staff to verify educational materials pertaining to buffer distances and related avoidance measures are prepared and disseminated. WT Staff to verify required signage is provided at TH sites with a potential for increased use that are located near pupping sites.	WT Staff to report to PMT on educational materials and on evaluation of site improvements and implementation of signage prior to official TH designation.		
Bio-M14B	Review Improvements at Certain Sites and Implement Education and Outreach Buffer Zone Signage and Other Markers	Prior to official TH designation; during TH designation process	WT Staff; Site Owner/ Manager	WT staff to verify 1) signage pertaining to buffer distances and related avoidance measures is provided where needed, 2) where needed, buoys are installed if feasible, and 3) educational materials pertaining to buffer distances and related avoidance measures are prepared and disseminated.	WT Staff to report to PMT on educational materials and on implementation of signage and/or buoys prior to official TH designation.		

	TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM						
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements		
Bio-M15	Seasonal Closures, Monitoring and Adaptive Management	During TH designation process; following official TH designation	WT Staff and USFWS/ DFG/NOAA	WT Staff to verify that sites are reviewed to identify need for seasonal closures, and that required seasonal closures are publicized. WT Staff to review annual assessment of seal counts at haul-out sites, and ensure that any evidence of decline is appropriately evaluated and addressed.	WT Staff to report to PMT prior to official TH designation. WT Staff to report to PMT on assessment of seal counts annually.		
Bio-M15	Bio-M15: Undertake Waste Management, Predator Control, and Basking Impact Minimization	Prior to official TH designation; during TH designation process; following official TH designation	WT Staff; Site Owner/ Manager	WT Staff to verify that potential presence of sensitive species is evaluated, and appropriate actions are implemented.	WT Staff to report to PMT prior to official TH designation. WT Staff to report to PMT on on-going tracking efforts (e.g., trash removal, seasonal closures) annually.		
Bio-M17	Provide Mitigation for Disturbance to Harbor Seals Due to Construction/Improvements at WT Sites	During TH designation process; prior to/during construction	WT Staff; Site Owner/ Manager	WT Staff to verify appropriate pre- construction surveys for sites within 500 m of a primary haul-out site are implemented. Site Owner/Manager to ensure contractor complies with construction timing requirements.	WT Staff to report to PMT prior to official TH designation. Site Owner/Manager to report contract language re: construction timing to WT Staff prior to start of construction.		
Cult-M1	Include Protection of Cultural Resources in Education and Outreach Efforts	Prior to official TH designation; during TH designation process	WT Staff; Site Owner/ Manager	WT Staff to verify educational and outreach materials pertaining to cultural resources and cultural resources protection are prepared and disseminated.	WT Staff to report to PMT prior to official TH designation.		

TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM									
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements				
Cult-M2A	Undertake Expanded Archival Research and Field Investigations to Provide Information About Potential Prehistoric Archaeological Deposits	Prior to official TH designation	Site Owner/ Manager	WT Staff to verify required expanded archival research and/or field studies are conducted at WT sites where excavation is planned.	WT Staff to report to PMT Prior to official TH designation.				
Cult-M2B	Protect Prehistoric Archaeological Remains in Adjacent Areas	During TH designation (design); during construction	WT Staff; Site Owner/ Manager	WT Staff to review TH Plans to verify disturbance of cultural resources by new site features/facilities is avoided; protection measures are implemented as necessary; and appropriate signage is provided.	WT Staff to report to PMT prior to official TH designation.				
Hyd-M1	Employ Construction Best Management Practices	Prior to/during construction	Site Owner/ Manager; Contractor	Site Owner/ Manager to ensure contractor develops SWPPP and implements BMPs.	Contractor to report to Site Owner/ Manager prior to start of construction.				
Hyd-M2	Implement Stormwater Best Management Practices	During TH designation (design); during construction	Site Owner/ Manager	WT Staff to verify BMPs were integrated into the facility design and appropriate signage has been posted.	Site Owner/ Manager to report to WT Staff prior to start of construction.				
Hyd-M5	Design All New Permanent Structures to Address Potential Flood Hazards	During TH designation process (design); during construction	Site Owner/ Manager	WT Staff to verify designs of new permanent facilities meet flood zone requirements and address anticipated sea level rise. Site Owner/ Manager to ensure contractor complies with construction drawings.	WT Staff to report to PMT prior to official TH designation. Contractor to report to Site Owner/ Manager prior to start of construction.				

TABLE 4-1. MITIGATION MONITORING AND REPORTING PROGRAM								
Mitigation Number	Mitigation Name	Timing	Responsible Party	Monitoring Requirements	Reporting Requirements			
TCP-M1	Undertake Traffic Assessment Prior to Designation of New or Enhanced WT Sites	During TH designation process; during design	Site Owner/ Manager	WT Staff to verify appropriate study has been completed, and results incorporated into design, if needed.	WT Staff to report to PMT prior to official TH designation.			
TCP-M2	Undertake Parking Study Prior to Development of New or Enhanced WT Sites	Upon adoption of the Enhanced WT Plan; during TH designation process	WT Staff; Site Owner/ Manager	WT Staff to verify that appropriate study has been completed and TH Plan addresses need for new parking, if needed.	WT Staff to report to PMT prior to official TH designation.			
TCP-M3	Evaluate Emergency Vehicle Access at New WT Sites and Sites with Substantial Improvements	During TH designation process	Site Owner/ Manager	WT Staff to verify appropriate evaluation has been completed, and results incorporated into design, if needed.	WT Staff to report to PMT prior to official TH designation.			
TCP-M4	Evaluate Plans for New WT Sites to Determine Safety for Vehicle Access	During TH designation process	Site Owner/ Manager	WT Staff to verify appropriate analysis has been completed, and results incorporated into design, if needed.	WT Staff to report to PMT prior to official TH designation.			